



BOARD OF DIRECTORS MEETING
WEDNESDAY, DECEMBER 7, 2016 – 8:00 A.M.
OMNITRANS METRO FACILITY
1700 WEST 5TH STREET
SAN BERNARDINO, CA 92411

The Board of Directors meeting facility is accessible to persons with disabilities. If assistive listening devices or other auxiliary aids or Limited English Proficiency services are needed in order to participate in the public meeting, requests should be made through the Board Secretary at least three (3) business days prior to the Board Meeting. The Board Secretary's telephone number is 909-379-7110 (voice) or 909-384-9351 (TTY). If you have comments about items on the agenda or other general concerns and are not able to attend the meeting, please mail them to Omnitrans at 1700 West Fifth Street, San Bernardino, California, Attention Board Secretary. Comments may also be submitted by email to BoardSecretary@omnitrans.org.

A. CALL TO ORDER

1. Invocation
2. Pledge of Allegiance
3. Roll Call

B. ANNOUNCEMENTS/PRESENTATIONS

1. Next Board Meeting: Wednesday, January 4, 2017 – 8:00 a.m.
Omnitrans Metro Facility Board Room

C. COMMUNICATIONS FROM THE PUBLIC

This is the time and place for the general public to address the Board for items that are not on the agenda. In accordance with rules applicable to meetings of the Board of Directors, comments on items not on the agenda and on items on the agenda are to be limited to a total of three (3) minutes per individual.

D. POSSIBLE CONFLICT OF INTEREST ISSUES

1. Note agenda item contractors, subcontractors and agents, which may require member abstentions due to conflict of interest and financial interests. Board Member abstentions shall be stated under this item for recordation on the appropriate item.

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E. CONSENT CALENDAR

The following items are expected to be routine and non-controversial. The Board will act upon them at one time without discussion, unless the Board directs that an item be held for further discussion under Agenda Item F, Discussion Items. Any person wishing to address consent items should address the Board under Agenda Item #E7 Action on Consent Calendar.

1. Approve Board Minutes – November 2, 2016
2. Receive and File Administrative and Finance Committee Minutes – October 13, 2016
3. Receive and File Construction Progress Report No. 52 through October 31, 2016 – sbX E Street Corridor BRT Project
4. Authorize CEO/General Manager to Take Steps Necessary for Right-of-Way Closeout for San Bernardino Transit Center
5. Authorize Release, Request for Proposals RFP-MNT17-57, Uniform And Textile Services

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**BOARD OF DIRECTORS MEETING
WEDNESDAY, DECEMBER 7, 2016 – 8:00 A.M.
OMNITRANS METRO FACILITY
1700 WEST 5TH STREET
SAN BERNARDINO, CA 92411**

E. CONSENT CALENDAR CONTINUED	
6. Authorize Release, Request for Proposals RFP-PRC17-51, Online Bidding System	59
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The following items do not legally require any public testimony, although the Chair may open the meeting for public input.	
1. CEO/General Manager's Report	61
2. Adopt Calendar Year 2017 Board Meeting Schedule	62
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8. Authorize Award, Contract MNT16-109(A-E), Miscellaneous Bulk Oils and Lubricants	348
H. BOARD BUSINESS	
Closed Session	
1. Conference with Labor Negotiator P. Scott Graham concerning labor negotiations with Teamsters Union Local No. 166 regarding the Maintenance and Administrative Support Unit, pursuant to Government Code Section 54957.6	
2. Conference with Labor Negotiator P. Scott Graham concerning labor negotiations with Amalgamated Transit Union Local No. 1704 regarding the Coach Operator Unit, pursuant to Government Code Section 54957.6	
Open Session	
2. Approve Memorandum of Understanding (MOU) between Omnitrans and Amalgamated Transit Union Local #1704, for the Coach Operator Unit, effective	390
I. REMARKS AND ANNOUNCEMENTS	
J. ADJOURNMENT	

ITEM # D1

DATE: December 7, 2016

TO: Board Chair Sam Spagnolo and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Jennifer M. Sims, Director of Procurement

**SUBJECT: DISCLOSURE(S) REGARDING RECOMMENDATIONS FOR
ACTION BY THE OMNITRANS BOARD OF DIRECTORS**

FORM MOTION

Staff hereby provides a listing of principals and subcontractors associated with action items on the agenda for the Board of Director's Meeting scheduled December 7, 2016.

Item	Contract	Principals & Agents	Subcontractors
#F4	Authorize Award Contract MKP17-18 Passenger & sbX Corridor Business Surveys	<i>Redhill Group, Inc. Irvine, CA Mark McCourt Principal</i>	<i>JLM Staffing Solutions Long Beach, CA Cambridge Systematics Los Angeles</i>
#F5	Authorize Award Contract MNT17-04 HVAC and Energy Management System Maintenance Services	<i>ABM Building Solutions, LLC Irvine, CA Robert Bayer Vice President</i>	<i>RL Monitoring & Controls Lakewood, CA</i>
#F6	Authorize Award Contract MNT17-15 Paint and Carpet Replacement and Installation	<i>Corner Keystone Construction Corp Walnut, CA Man Dy V.P. Operations</i>	<i>P.W. Stephens Environmental, Inc. Huntington Beach, CA Mike's Custom Flooring Redlands, CA</i>
#F7	Authorize Award Contract MNT17-39 Landscaping Services	<i>RP Landscape and Irrigation San Bernardino, CA Roy Perez Owner</i>	<i>None</i>

Item	Contract	Principals & Agents	Subcontractors
#F8	Authorize Award Contract MNT16-109 (Bench) Miscellaneous Bulk Oils and Lubricants	<p><i>Patten Energy Enterprises Los Angeles, CA Ezekiel Patten Jr. President</i></p> <p><i>Rosemead Oil Products, Inc. Santa Fe Springs, CA Cody Schoensiegel Sales Manager</i></p> <p><i>Dion & Sons, Inc. Long Beach, CA Curt Rocha V.P. Sales & Marketing</i></p> <p><i>Safety-Kleen Systems, Inc. Richardson, TX Henry Delevett President</i></p> <p><i>Merit Oil Company Bloomington, CA Bruce Schmid Account Executive/Contract Administrator</i></p>	<p><i>None</i></p> <p><i>Sungro Products Los Angeles, CA</i></p> <p><i>None</i></p> <p><i>None</i></p> <p><i>None</i></p>

PSG:JMS

CONFLICT OF INTEREST FORM

PURPOSE: This form is provided to assist members of the Omnitrans Board of Directors in meeting requirements of Government Code Section 84308 and 87100 in documenting conflict of interest as related to Omnitrans Board/Committee agenda items.

INSTRUCTIONS: Under certain circumstances, Omnitrans Board Members may be required to disclose and disqualify themselves from participating in, influencing, or voting on an agenda item due to personal income, real property interests, investments, business positions, or receipt of campaign contributions. If applicable, Board Members must personally state the following information, for entry into the public record, prior to consideration of the involved agenda item(s) and turn in the completing form to the Recording Secretary prior to leaving the meeting.

BOARD MEMBER INFORMATION

BOARD MEMBER NAME	CITY/COUNTY NAME	MEETING DATE

CAMPAIGN CONTRIBUTIONS

- I have a disqualifying campaign contribution of over \$250 from _____
(Name of Company and/or Individual)
and therefore I am abstaining from participation on Agenda Item _____, Subject: _____
- I have a disqualifying campaign contribution of over \$250 from _____
(Name of Company and/or Individual)
and therefore I am abstaining from participation on Agenda Item _____, Subject: _____
- I have a disqualifying campaign contribution of over \$250 from _____
(Name of Company and/or Individual)
and therefore I am abstaining from participation on Agenda Item _____, Subject: _____

FINANCIAL INTEREST

- I have a financial interest of _____
State income, real property interest or business position

Identify company or property location
- I have a financial interest of _____
State income, real property interest or business position

SIGNATURE

Board Member Signature

Date

ITEM # _____ E1 _____

**BOARD OF DIRECTORS' MEETING
MINUTES OF NOVEMBER 2, 2016**

A. CALL TO ORDER

Chairman Sam Spagnolo called the regular meeting of the Omnitrans Board of Directors to order at 8:02 a.m., Wednesday, November 2, 2016, at the Omnitrans Facility located at 1700 West 5th Street, San Bernardino, California.

1. Invocation
2. Pledge of Allegiance
3. Roll Call

BOARD MEMBERS PRESENT

Mayor Pro Tem Sam Spagnolo, City of Rancho Cucamonga – Chairman
Council Member Ron Dailey, City of Loma Linda
Mayor Carey Davis, City of San Bernardino
Mayor Richard DeLaRosa, City of Colton
Council Member Pat Gilbreath, City of Redlands
Council Member Ed Graham, City of Chino Hills
Supervisor Curt Hagman, County of San Bernardino
Council Member Penny Lilburn, City of Highland
Mayor Ray Musser, City of Upland
Supervisor James Ramos, County of San Bernardino
Council Member Dick Riddell, City of Yucaipa
Council Member John Roberts, City of Fontana
Mayor Pro Tem Sylvia Robles, City of Grand Terrace
Supervisor Janice Rutherford, County of San Bernardino
Council Member Alan Wapner, City of Ontario
Mayor Dennis Yates, City of Chino

BOARD MEMBERS NOT PRESENT

Mayor Paul Eaton, City of Montclair
Supervisor Josie Gonzales, County of San Bernardino
Supervisor Robert Lovingood, County of San Bernardino
Mayor Deborah Robertson, City of Rialto

OMNITRANS' ADMINISTRATIVE STAFF PRESENT

P. Scott Graham, CEO/General Manager
Diane Caldera, Director of Operations
Nathan Churan, Director of Special Transit Services
Jack Dooley, Director of Maintenance
Marge Ewing, Director of Human Resources, Safety & Regulatory Compliance
Samuel Gibbs, Director of Internal Audit
Jacob Harms, Director of Information Technology
Jennifer Sims, Director of Procurement
Don Walker, Director of Finance
Wendy Williams, Director of Marketing/Planning
Jeremiah Bryant, Service Planning Manager
Barbara Erwin, Safety & Regulatory Compliance Manager
Maurice Mansion, Treasury Manager
Barbara Erwin, Safety & Regulatory Compliance Manager
Omar Bryant, East Valley Maintenance Manager
Ray Maldonado, Employee Relations Manager
Eugenia Pinheiro, Contracts Manager
Krystal Turner, Contracts Administrator
Christine Van Matre, Contracts Administrator
Terry Morocco, Safety & Regulatory Compliance Specialist
Vicki Dennett, Senior Executive Assistant to CEO/General Manager

LEGAL COUNSEL

Erica Vega, Legal Counsel

B. ANNOUNCEMENTS/PRESENTATIONS

1. Next Board Meeting: Wednesday, December 7, 2016, 8:00 a.m.
Omnitrans Metro Facility Board Room

C. COMMUNICATIONS FROM THE PUBLIC

1. Patricia Sachs spoke about the difficult walk from the nearest bus stop to The Way World Church on Hallmark in San Bernardino. She also had suggestions about advertising opportunities, and said she would seek an appointment with Marketing/ Planning Director Wendy Williams to discuss offline.
2. Jeff DeFillipes spoke about the great job the Omnitrans drivers are doing as a whole. He would like to see bus routes run earlier and more often during the week.

D. POSSIBLE CONFLICT OF INTEREST ISSUES

There were no Conflict of Interest Issues.

E. CONSENT CALENDAR

1. Approve Board Minutes – September 30, 2016
2. Receive and File Administrative and Finance Committee Minutes – September 15, 2016
3. Receive and File Agency Management Report – Fiscal Year 2017 First Quarter Report
4. Receive and File Affirmative Action Status Report – As of October 13, 2016
5. Receive and File Construction Progress Report No. 51 through September 30, 2016 – sbX E Street Corridor BRT Project
6. Receive and File sbX E Street Corridor BRT Project – Fiscal Year 2017 First Quarter Report – September 2016
7. Receive and File Key Performance Indicators – Fiscal Year 2017 First Quarter Report
8. Receive and File Management Plan Strategic Initiatives – Fiscal Year 2017 First Quarter Report
9. Receive and File Workforce Development Program – End of Program Report
10. Authorize Release – Request for Proposals RFP-MNT17-26 – Towing Services
11. Adopt Resolution No. 294-16, Amending Omnitrans Conflict of Interest Code
12. Press Articles and Letters of Interest to the Board

M/S (Gilbreath/Graham) that approved Consent Calendar. Member Rutherford asked for comments from CEO/General Manager Graham about Consent Items 3 and 7 referring to the loss in local ridership, which Mr. Graham said would be discussed in his GEO/General Manager's Report. Motion was unanimous by Members present.

Member DeLaRosa arrived at 8:10 a.m.

F. DISCUSSION ITEMS

1. CEO/General Manager's Report

CEO/General Manager P. Scott Graham reviewed the CEO/General Manager's Report. In addressing Consent Items 3 and 7, he said Omnitrans has been emphasizing Express Bus Service to offset the loss in local ridership, and highlighted some of the successes.

Mr. Graham also discussed the Omnitrans 40th Anniversary celebration, and Marketing/Planning Director Wendy Williams presented the video that is being promoted as a marketing tool for outreach events, as well as an advertising tool for the Omnitrans website.

Finally, Mr. Graham noted that the revised JPA was filed in Sacramento.

Member Musser arrived at 8:11 a.m.

Member Robles arrived at 8:15 a.m.

Member Ramos arrived at 8:17 a.m.

Member Hagman arrived at 8:21 a.m.

2. Authorize Award – Contract HRS17-03 Security Services

M/S (Hagman/DeLaRosa) that authorized the CEO/General Manager to award Contract HRS17-03 to Platinum Security, Inc. of Los Angeles, CA, for the provision of Security Services for a three (3) year base period with two (2) single year options ending no later than December 2021 in the amount of \$7,094,703, Option 1 to add the San Bernardino Transit Center (SBTC) Parking Lot in the amount of \$2,006,040, and Option 2 to add the Redlands Rail in the amount of \$655,460, plus a ten percent contingency of \$975,620, for a total not-to-exceed amount of \$10,731,823, should all options be exercised. Motion was unanimous by Members present.

3. Authorize Award – Contract ITS17-17 Next Generation Firewall Replacement

M/S (Yates/Ramos) that authorized the CEO/General Manager to award Contract ITS17-17 to Infobond, Inc. of Fremont, CA, for the provision of a Next Generation Firewall Replacement (NGFW) for a three (3) year base period beginning November 2016 and ending November 2019, in the amount of \$66,496, and the authority to exercise two (2) single year options tied to the Consumer Price Index (CPI), extending the contract to no later than November 2021, totaling \$111,765, plus a ten percent contingency of \$11,177, for a total not-to-exceed amount of \$122,942, should all options be exercised. Motion was unanimous by members present.

4. Authorize Award (Bench) – Contract MNT17-01 (A-J) Rebuilt Parts and Services

M/S (Yates/Ramos) that authorized the CEO/General Manager to award Contracts MNT17-01 (A-J) as listed below for the provision of Rebuilt Parts and Services for a three (3) year base period beginning November 2016, in an aggregate amount of \$2,075,000, and the authority to exercise two (2) single year options tied to the Consumer Price Index (CPI) in an aggregate amount not to exceed \$1,525,000, ending no later than November, 2021, for a total aggregate not-to-exceed amount of \$3,600,000, should all options be exercised.

List of contracts for authorization:

Contract No.	Contractor
MNT17-01A	Dartco Transmission Sales and Service Inc. of Anaheim, CA
MNT17-01B	Hydraulic Electric Component Supply, Inc. of Santee, CA
MNT17-01C	Romaine Electric Corporation of Kent, WA
MNT17-01D	TruckPro of Fontana, CA
MNT17-01E	Cummins Pacific LLC of Irvine, CA
MNT17-01F	Wayne Electric Company of Long Beach, CA
MNT17-01G	Complete Coach Works of Riverside, CA
MNT17-01H	Harbor Diesel and Equipment, Inc. of Long Beach, CA
MNT17-01I	Kirk's Automotive, Inc. of Detroit, MI
MNT17-01J	Custom Turbo Rebuilding, Inc. of Santa Fe Springs, CA

Motion was unanimous by members present.

5. Authorize Award – Contract MNT17-05 Standby Generator and Automatic Transfer Switch (ATS) Service

M/S (Yates/Ramos) that authorized the CEO/General Manager to award Contract MNT17-05 to Global Power Group, Inc., of Lakeside, CA, for the provision of Standby Generator and Automatic Transfer Switch (ATS) Service for a three (3) year base period with two (2) single option years, ending no later than November 17, 2021, in the amount of \$80,290, a repair allowance in the amount of \$25,000, and the authority to exercise three equipment options in an amount of \$61,533, plus a ten percent contingency of \$16,682, for a total not-to-exceed amount of \$183,505 should all options be exercised. Motion was unanimous by Members present.

6. Authorize Award (Bench) – Contracts MNT17-24 (A-D) John Deere Bus Parts II

M/S (Yates/Ramos) that authorized the CEO/General Manager to award Contracts MNT17-24 (A-D) as listed below for the provision of John Deere Bus Parts for a three (3) year base period beginning November 2016, and ending January 5, 2019, in an aggregate amount of \$400,944, and the authority to exercise two (2) single year options tied to the Consumer Price Index (CPI), extending the contracts to no later than January 5, 2021, in an aggregate not-to-exceed amount of \$810,287, should all options be exercised.

List of contracts for authorization:

Contract No.	Contractor
MNT17-24A	Harbor Diesel and Equipment of Long Beach, CA
MNT17-24B	A-Z Bus Sales, Inc. of Colton, CA
MNT17-24C	Custom Turbo Rebuilding Inc. of Santa Fe Springs, CA
MNT17-24D	Brenco Operating-Texas, L.P. of Colorado Springs, CO

Motion was unanimous by Members present.

7. Adopt Procurement Policy 6010 Debarment and Suspension

M/S (Hagman/Ramos) that adopted Omnitrans Procurement Policy 6010, Debarment and Suspension, effective November 2, 2016. Motion was unanimous by Members present.

8. Redlands Passenger Rail Project Progress and Cost Update

Member Dailey arrived at 8:29 a.m.

Justin Fornelli of SANBAG provided the update on this project. The project has been cleared environmentally, including the Quiet Zone, which means the engineers will not

routinely sound their horns at grade crossings. They are moving forward with the procurement of Diesel Multiple Units (DMUs), which are lighter and smaller than the normal Metrolink coaches, in response to community concerns. DMUs will run 25 times a day, with 30-minute headways, eventually to the Ontario International Airport from the SBTC. Another operating component is an agreement to have Omnitrans operate and maintain the trains. Mr. Fornelli mentioned some of the grant funding they have received, and have applied for. The FRA is the regulatory agency.

This item was Received and Filed.

9. Approve Redlands Passenger Rail Service Branding Initiative

Tim Watkins from SANBAG explained the branding process, providing background information, and how the name “Arrow” was chosen. Member Wapner said he would like to see a branding of the system within the Omnitrans family of services. The system brand may be something like “OmniRail.”

M/S (Ramos/Gilbreath) that approved the Redlands Passenger Rail Project service branding. Motion was unanimous by Members present.

Member Ramos left the meeting at 8:52 a.m., returning at 8:53 a.m.

G. PUBLIC HEARING

1. Close Public Hearing – Federal Transit Administration Section 5307, Congestion Mitigation Air Quality and Section 5339 Funds

M/S (Musser/Robles) that closed the public hearing concerning the Federal Transit Administration (FTA) §5307, Congestion Mitigation Air Quality (CMAQ) and §5339 funds for Fiscal Year 2017 that was held at 8:00 a.m., November 2, 2016, at the Omnitrans Metro Facility, 1700 West Fifth Street, San Bernardino, CA 92411. Motion was unanimous by Members present.

H. BOARD BUSINESS

Closed Session

The Board adjourned to Closed Session at 8:54 a.m.

1. Conference with Labor Negotiator P. Scott Graham concerning labor negotiations with Amalgamated Transit Union Local No. 1704 regarding the Coach Operator Unit, pursuant to Government Code Section 54957.6
2. Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation pursuant to paragraph (2) or (3) of subdivision (d) of Section 54956:1 case

Open Session reconvened at 9:23 a.m. with no reportable action.

I. REMARKS AND ANNOUNCEMENTS

Ontario International Airport is no longer affiliated with LAX. Member Wapner talked about some of the changes, such as restaurants and retail establishments remaining open while there are passengers on the premises.

J. ADJOURNMENT

The Board adjourned at 9:26 a.m. The next regular meeting is scheduled Wednesday, December 7, 2016, at 8:00 a.m., with location posted on the Omnitrans website and at Omnitrans' San Bernardino Metro Facility.

Prepared by:

Christine Vega, Administrative Secretary

ITEM # _____ E2 _____

**ADMINISTRATIVE & FINANCE COMMITTEE
MINUTES, OCTOBER 13, 2016**

A. CALL TO ORDER

Chairman Ed Graham called the regular meeting of the Administrative and Finance Committee to order at 8:02 a.m., Thursday, October 13, 2016.

1. Pledge of Allegiance
2. Roll Call

Committee Members Present

Council Member Ed Graham, City of Chino Hills – Committee Chair
Mayor Carey Davis, City of San Bernardino
Mayor Paul Foster, City of Redlands – Alternate
Supervisor Curt Hagman, County of San Bernardino
Mayor Ray Musser, City of Upland
Council Member Dick Riddell, City of Yucaipa
Council Member John Roberts, City of Fontana
Council Member Alan Wapner, City of Ontario

Committee Members Not Present

Mayor Paul Eaton, City of Montclair
Mayor Pro Tem Sylvia Robles, City of Grand Terrace

Others Present

Council Member Sam Spagnolo, City of Rancho Cucamonga

OmniTrans Administrative Staff Present

P. Scott Graham, CEO/General Manager
Diane Caldera, Director of Operations
Nathan Churan, Director of Special Transit Services
Jack Dooley, Director of Maintenance
Marge Ewing, Director of Human Resources/Safety & Security
Sam Gibbs, Director of Internal Audit
Jacob Harms, Director of Information Technology
Andres Ramirez, IPMO Program Manager
Jennifer Sims, Director of Procurement
Wendy Williams, Director of Marketing/Planning

Maurice Mansion, Treasury Manager
Omar Bryant, East Valley Maintenance Manager
Jeremiah Bryant, Service Planning Manager
Mark Crosby, Security & Emergency Preparedness Coordinator
Vicki Dennett, Senior Executive Assistant to the CEO/General Manager

B. ANNOUNCEMENTS/PRESENTATIONS

The next Committee Meeting is scheduled Thursday, November 10, 2016, at 8:00 a.m.

C. COMMUNICATIONS FROM THE PUBLIC

There were no communications from the public.

D. POSSIBLE CONFLICT OF INTEREST ISSUES

There were no conflict of interest issues identified.

E. DISCUSSION ITEMS

1. Approve Administrative & Finance Committee Minutes – September 15, 2016

M/S (Musser/Spagnolo) that approved the Committee Minutes of September 15, 2016. Motion was unanimous by Members present, except for Chairman Graham, who abstained.

2. Recommend the Board of Directors Receive and File Construction Progress Report No. 51 through September 30, 2016 – sbX E Street Corridor BRT Project

IPMO Program Manager Andres Ramirez presented this item. The Tenth through Highland project was completed and re-opened September 9. Budget reconciliation and contract close-out procedures are underway. The PA system kickoff meeting is today. TSP management along the corridor is being worked on. The VMF modification work contract was awarded and executed, and scheduled for completion in February 2017. We still expect to complete the project as budgeted at \$188 million. The after-study report is part of the grant agreement with the FTA, to demonstrate the improvement along the corridor.

M/S (Davis/Musser) that received and filed report, and move forward to the Board of Directors for receipt and file. Motion was unanimous by Members present.

3. Receive and File Omnitrans' Director of Finance's Report on Price of Compressed Natural Gas

CEO/General Manager P. Scott Graham presented this item. Prices continue to be low,

remaining at an average of \$0.74 per gallon, about \$0.08 higher than the budgeted amount of \$0.66 per gallon. The total natural gas fuel budget for FY2017 is \$2,487,337, compared with \$4,376,301 for the previous fiscal year. Finance Director Don Walker will continue to monitor and report to this committee.

This item was received and filed.

4. Recommend the Board of Directors Receive and File Workforce Development Program – End of Program Report

Samuel Gibbs, Director of Internal Audit, presented this item, highlighting the accomplishments achieved through the regional grant activities. During the \$340,000 grant program, Omnitrans trained 180 participants in 15 classes. Thirteen graduates were hired by Omnitrans, and 15 others were hired by other agencies. In addition, the successful internship portion of the grant resulted in two interns being hired into permanent positions with Omnitrans. The third successful component of the program is the Coach Operator Simulator, acquired through an MOU with CSUSB, and actively used in Coach Operator training.

Member Hagman arrived at 8:18 a.m.

This item was received and filed.

F. ADJOURNMENT

The Administrative and Finance Committee meeting adjourned at 8:38 a.m.

The next Administrative and Finance Committee Meeting is scheduled Thursday, November 10, 2016, at 8:00 a.m., with location posted on the Omnitrans website and at Omnitrans' San Bernardino Metro Facility.

Prepared by:

Christine Vega, Administrative Secretary

ITEM # _____ E3

DATE: December 7, 2016

TO: Board Chair Sam Spagnolo and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Andres Ramirez, Program Manager

**SUBJECT: CONSTRUCTION PROGRESS REPORT NO. 52 THROUGH
OCTOBER 31, 2016 – sbX E STREET CORRIDOR BRT PROJECT**

FORM MOTION

Receive and file Construction Progress Report No. 52 for the sbX E Street Corridor BRT Project through October 31, 2016.

This item was reviewed by the Administrative and Finance Committee at its November 10, 2016, meeting, and recommended for receipt and file.

BACKGROUND

This is Construction Progress Report No. 52 for the sbX E Street Corridor Project.

CONCLUSION

Receive and file Construction Progress Report No. 52 for the sbX E Street Corridor BRT Project through October 31, 2016.

PSG:AR

Attachment

**sbX E Street Corridor
Bus Rapid Transit (BRT) Project
Construction Progress Report No. 52**

October 31, 2016

Prepared By:

**Omnitrans
Integrated Project Management Office**

Contractor: SBX Corridor - Griffith/Comet Joint Venture
VMF – USS Cal Builders

Contractor Contract No.: IPMO11-5

Omnitrans Program Manager: Andres Ramirez



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 - A. Project Description
 - B. Summary Status Update
- II. Project Schedule
- III. Safety
- IV. Project Budget and Cost

I. PROJECT STATUS SUMMARY

A. Project Description

The sbX E Street Corridor BRT Project is an Omnitrans transit improvement project that consists of three components.

E Street Corridor: A 15.7-mile-long Bus Rapid Transit corridor that will connect the northern portion of the City of San Bernardino with the City of Loma Linda. The sbX E Street Corridor Bus Rapid Transit (BRT) Project has evolved as the highest priority corridor identified in the System-Wide Transit Corridor Plan for the San Bernardino Valley.

Bus Purchase: In order to provide service to the E Street Corridor a total of fourteen 60' articulated buses will be purchased.

Vehicle Maintenance Facility Modifications: A 4.4-acre facility maintaining and servicing the Omnitrans' bus fleet, comprised of over 160 buses. Modifications to Omnitrans' facility include the demolition of a bus washing station, removal of abandoned underground fuel tanks and new construction of a bus washing system, a new Genset, a three-lane CNG fueling station, and re-configuring the bus parking area. Modifications to the maintenance building are made in order to accommodate Omnitrans' 60-foot articulated bus fleet.

B. Summary Status Update

E Street Corridor:

10th to Highland:

- Final acceptance and Close Out on going.



sbX Coach rolling on new roadbed



Improved roadway, San Bernardino

PA System:

- Contract awarded June 1 by Board of Directors.
- Contract executed.
- Kick-off meeting held.
- Submittals are being prepared and procuring the materials.

Traffic Signal Synchronization:

- We have contacted the City for final acceptance meeting.
- TSP MOU is the final item.

Vehicle Maintenance Facility:

Contract Closeout

- Final Change Order and Final Acceptance need to be issued.

Modification Work

- Contract executed; kick off meeting being scheduled.
- Completion projected for February 2017.

II. PROJECT SCHEDULE

The three major components of the project (E Street Corridor, 60' Articulated Buses, and the Vehicle Maintenance) are complete and have been placed into operation. Additional components to the project (i.e. 10th to Highland, City Acceptance Work, the PA System, and the VMF Completion Work) are currently being worked on and are in different stages of progress. Projected completion dates listed below:

	Scheduled Completion	Projected Completion
E Street Corridor		
City of SB Final Work / World Oil	February 2016	Completed
10 th to Highland	September 2016	Completed
PA System	November 2016	May 2017
Vehicle Maintenance Facility		
Completion Work	May 2016	February 2017

III. SAFETY

The project team considers safety to be the utmost priority. As such, the entire project team works towards a “no-lost time” goal on a daily basis. Below is a breakdown of the hours achieved with zero lost time due to injuries:

	Through September 2016
E Street Corridor	
Corridor Construction including final Work	425,441
10 th to Highland	19,893
PA System	0
Vehicle Maintenance Facility	64,436
Total	509,770

IV. PROJECT BUDGET AND COST

The project continues to be within budget. We currently have zero open claims on the project. A breakdown of the project costs and projections is detailed in the following tables:

Total Project Budget Summary
Budget as of September 30, 2016

Approved Budget	\$191,706,000
Cost to Date	\$184,963,581
Estimate to Complete	
Corridor Project	\$ 2,487,825
10 th to Highland	\$ 1,160,922
Estimate at Completion	\$188,612,328

Budget By Contract Packages 30-Sep-2016								(Contract Award + Approved Changes)		(Approved Current Budget- Committed)	Forecast		
											Potential Uses of Contingency		
	PCGA Budget	Approved Current Budget	Authorized for Expenditure	Expended to Date	% of Approved Current Budget	Contracts Awarded	Approved Changes	Committed	Expenditure Authorization Remaining	Remaining Contingency	Pending Commitments/ Potential Changes	Trends/Risks	Estimate At Completion
BRT Construction													
Griffith/Comet JV	90,780,000	84,637,000	87,760,263	81,238,395	96.2%	64,937,853	16,365,742	81,303,595	6,456,668	3,333,405	-	-	81,303,595
Art			68,000	68,000		68,000	-	68,000	-	(68,000)	-	-	68,000
Other Direct Payments			48,401	57,197		57,197	-	57,197	(8,796)	(57,197)	-	-	57,197
Delineators				70,991		89,943	(18,952)	70,991	(70,991)	(70,991)	-	-	70,991
PA System				-		563,875	-	563,875	(563,875)	(563,875)	56,388	-	620,263
Miscellaneous Work				-		17,500	-	17,500	(17,500)	(17,500)	75,000	75,000	167,500
BRT Design													
Parsons	19,193,400	17,849,400	18,097,876	19,117,926	107.5%	16,464,092	3,725,637	20,189,729	(2,091,853)	(2,340,329)	(1,334,545)	-	18,855,185
PA System				68,450		83,000	-	83,000	(83,000)	(83,000)	8,300	-	91,300
Miscellaneous Work				-		-	-	-	-	-	-	-	-
VMF Construction - USS Cal Builders	5,370,000	8,131,000	14,498,152	14,539,965	178.8%	10,579,786	3,955,349	14,535,135	(36,983)	(6,404,135)	866,700	-	15,401,835
VMF Design													
STV	1,007,600	1,007,600	1,418,132	1,902,471	190.6%	951,029	1,048,727	1,999,756	(581,624)	(992,156)	-	-	1,999,756
Carlin Environmental			27,800	18,380		10,000	9,800	19,800	8,000	(19,800)	-	-	19,800
Vehicles Design & Manufacturing-N.F.	16,628,000	16,628,000	15,978,093	15,211,154	92.5%	15,483,572	(272,418)	15,211,154	766,939	1,416,846	-	-	15,211,154
Other Vehicle Equipment			318,853	173,484		318,853	(145,369)	173,484	145,369	(173,484)	-	-	173,484
ROW Acquisition Services-SANBAG	6,532,000	10,357,000	11,738,400	11,417,926	110.2%	10,971,135	445,473	11,416,608	321,792	(1,059,608)	-	-	11,416,608
3rd Party Utilities Design & Reloc.		1,003,000	1,157,223	1,106,705	110.3%	1,174,205	-	1,174,205	(16,982)	(171,205)	50,000	-	1,224,205
Project Admin. And Management													
Jacobs	6,638,000	6,632,000	11,852,647	12,969,303	195.6%	3,898,769	9,070,534	12,969,303	(1,116,656)	(6,337,303)	-	-	12,969,303
Other													
IPMO	17,624,000	15,012,450	14,722,701	14,706,001	98.0%	15,006,001	(300,000)	14,706,001	16,700	306,449	-	-	14,706,001
Insurance	1,113,000	1,112,000	500,000	-	0.0%	500,000	(500,000)	-	500,000	1,112,000	-	-	-
Legal-BB&K, County	2,525,450	1,000,000	1,000,000	374,868	37.5%	1,000,000	(527,136)	472,864	527,136	527,136	-	-	472,864
In Kind Contributions	8,080,550	8,080,550	8,080,550	8,401,239	104.0%	8,401,239	-	8,401,239	(320,689)	(320,689)	-	-	8,401,239
Survey	1,464,000	1,463,000	464,000	-	0.0%	25,000	(25,000)	-	464,000	1,463,000	-	-	-
Start-Up	720,000	720,000	700,000	-	0.0%	-	-	-	700,000	720,000	700,000	-	700,000
Sub-Total	177,676,000	173,633,000	188,431,091	181,442,453	104.5%	150,601,049	32,832,387	183,433,435	4,997,655	(9,800,435)	421,843	75,000	183,930,278
Unallocated Contingency	14,030,000	18,073,000	4,500,812					9,800,435		8,272,565			7,775,722
10th to Highland Projected Costs			4,606,687	3,521,128	76.4%	3,901,000	94,578	3,995,578	611,109	(3,995,578)	636,472	50,000	4,682,050
Remaining Unallocated Contingency													3,093,672
Total	191,706,000	191,706,000	188,536,965	184,963,581	96.5%								191,706,000

IPMO/sbX Project Cost Report											
Period Ended 30-Sep-2016											
Description	Current Budget	Approved Current Budget	Authorized for Expenditure	Expenditures \$	%	Remaining Budget	Committed %	Estimate to Complete	Estimate at Completion	Budget Forecast Variance	
BRT Construction	\$ 84,637,000	\$ 84,637,000	\$ 87,876,664	\$ 81,434,583	96.2%	3,202,417	\$ 82,081,158 97.0%	\$ 206,388	\$ 82,287,545	\$ 2,349,455	
Vehicle Maintenance Facility (VMF) Construction	\$ 8,131,000	\$ 8,131,000	\$ 14,498,152	\$ 14,539,965	178.8%	(6,408,965)	\$ 14,535,135 178.8%	\$ 866,700	\$ 15,401,835	\$ (7,270,835)	
Vehicles - Design & Manufacturing	\$ 16,628,000	\$ 16,628,000	\$ 16,296,946	\$ 15,384,638	92.5%	1,243,362	\$ 15,384,638 92.5%	\$ -	\$ 15,384,638	\$ 1,243,362	
ROW Acquisition Services	\$ 10,357,000	\$ 10,357,000	\$ 11,738,400	\$ 11,417,926	110.2%	(1,060,926)	\$ 11,416,608 110.2%	\$ -	\$ 11,416,608	\$ (1,059,608)	
3rd Party Utilities Design & Relocation	\$ 1,003,000	\$ 1,003,000	\$ 1,157,223	\$ 1,106,705	110.3%	(103,705)	\$ 1,174,205 117.1%	\$ 50,000	\$ 1,224,205	\$ (221,205)	
BRT Design	\$ 17,849,400	\$ 17,849,400	\$ 18,097,876	\$ 19,186,376	107.5%	(1,336,976)	\$ 20,272,729 113.6%	\$ (1,326,245)	\$ 18,946,485	\$ (1,097,085)	
VMF Design	\$ 1,007,600	\$ 1,007,600	\$ 1,445,932	\$ 1,920,851	190.6%	(913,251)	\$ 2,019,556 200.4%	\$ -	\$ 2,019,556	\$ (1,011,956)	
Other Professional, Technical & Management Services	\$ 34,020,000	\$ 34,020,000	\$ 37,319,898	\$ 36,451,410	107.1%	(2,431,410)	\$ 36,549,407 107.4%	\$ 700,000	\$ 37,249,407	\$ (3,229,407)	
Allocated Contingency (Construction Contract)	\$ -	\$ -	\$ -			-	\$ - 0.0%	\$ -	\$ -	\$ -	
SUB-TOTAL	\$ 173,633,000	\$ 173,633,000	\$ 188,431,091	\$ 181,442,453	104.5%	(7,809,453)	\$ 183,433,435 105.6%	496,843	183,930,278	(10,297,278)	
Unallocated Contingency	\$ 18,073,000	\$ 18,073,000	\$ 4,500,812	\$ -		18,073,000	\$ - 0.0%	\$ -	\$ -	\$ 18,073,000	
10th to Highland	\$ -	\$ 4,682,050	\$ 4,606,687	\$ 3,521,128	75.2%	1,160,922	\$ 3,901,000 83.3%	\$ 1,160,922	\$ 4,682,050	\$ -	
TOTAL	\$ 191,706,000	\$ 191,706,000	\$ 188,536,965	\$ 184,963,581	96.5%	\$ 11,424,469	\$ 187,334,435 97.7%	\$ 1,657,765	\$ 188,612,328	\$ 7,775,722	

ITEM # E4

DATE: December 7, 2016
TO: Board Chair Sam Spagnolo and Members of the Omnitrans Board of Directors
THROUGH: P. Scott Graham, CEO/General Manager
FROM: Wendy Williams, Director of Marketing & Planning
SUBJECT: SAN BERNARDINO TRANSIT CENTER RIGHT-OF-WAY CLOSEOUT

FORM MOTION

Authorize the CEO/General Manager to take all steps necessary to execute the following actions for the right-of-way closeout for the San Bernardino Transit Center:

1. Transfer the property acquired as part of the San Bernardino Transit Center project from SANBAG to Omnitrans' ownership;
2. Dedicate roadway easements for the sidewalk area on Rialto Avenue to the City of San Bernardino; and dedicate storm drain easement to the City of San Bernardino and adjacent property owner.
3. Obtain approval of a lot merger to merge the five Omnitrans parcels at the San Bernardino Transit Center into three parcels; and
4. Obtain approval of a lot line adjustment to carve out the two future development pads (Transit Oriented Development parcels) as separate parcels.

This item was reviewed by the Administrative and Finance Committee at its November 10, 2016 meeting, and recommended for approval.

Omnitrans' legal counsel has reviewed and approved the deed and easements.

BACKGROUND

On October 5, 2011, the Board of Directors approved the San Bernardino Transit Center (SBTC) Planning, Design, Construction, Operating, and Maintenance Agreement with the San Bernardino Associated Governments (SANBAG). Under this agreement, SANBAG was the lead agency on design and construction for the SBTC project.

Form Motion 1

As a result of the design that was developed for the SBTC site, it was necessary to acquire property at the western end of the Transit Center site in order to align the bus entrance with F Street. SANBAG took the lead on the property acquisition. Now that the acquisition is complete, the property needs to be transferred from SANBAG to Omnitrans' ownership. The property to be transferred is highlighted in Attachment A. The quitclaim deed from SANBAG is in Attachment B.

Form Motion 2

Also as a result of the SBTC design, Rialto Avenue was widened as a part of the SBTC to include a passenger drop-off zone and bus stop (turnout) on Rialto Avenue. Thus, a roadway easement must be provided to the City (12,181 square feet) to include the sidewalk that was constructed. Additionally, along E Street, new street trees were planted and the sidewalk was reconstructed behind the trees, so roadway easement must be provided to the City (12,181 square feet) to include the sidewalk.

The areas to be granted to the City of San Bernardino for the sidewalk are highlighted in Attachment C. The grant of easement documents and corresponding legal and plat for the sidewalk are in Attachment D.

In addition, there are two storm drain easements to be granted; one to the City of San Bernardino and the other to the adjacent property owner (Affaitati). The grant of easement documents and corresponding legal and plat for the storm drain easements to the City and to the private property owner are in Attachments E and F, respectively.

Form Motion 3

Next, a lot line merger will be needed to merge the existing five parcels on the SBTC site into three parcels, as shown in Attachment G. The newly acquired property discussed under Form Motion 1 above must be merged into Omnitrans' adjacent parcel; and the two separate adjacent parcels in the southeast corner of the site must be merged together. SANBAG will assist with preparing the application package for the lot merger, which will be submitted to the City of San Bernardino for approval.

Form Motion 4

Finally, a lot line adjustment will be needed to carve out two Transit Oriented Development (TOD) pads as separate parcels, as shown in Attachment H. SANBAG will assist with preparing the application package for the lot line adjustment, which will be submitted to the City of San Bernardino for approval.

Having the TOD pads as separate parcels will provide Omnitrans the flexibility to either lease or sell these parcels for development in the future. In line with the original concept for the SBTC

project, Omnitrans will be working on a plan to partner with a developer to develop these parcels in order to bring in revenue to Omnitrans to help fund the operation of the site.

FUNDING

The actions in the four form motions in this item have no financial impact. Omnitrans' and SANBAG's financial contributions to the project, including for the cost of the property acquisition, were agreed upon in the agreements between Omnitrans and SANBAG approved by the Omnitrans Board of Directors on October 5, 2011 and December 4, 2013, and an amendment approved on April 1, 2015.

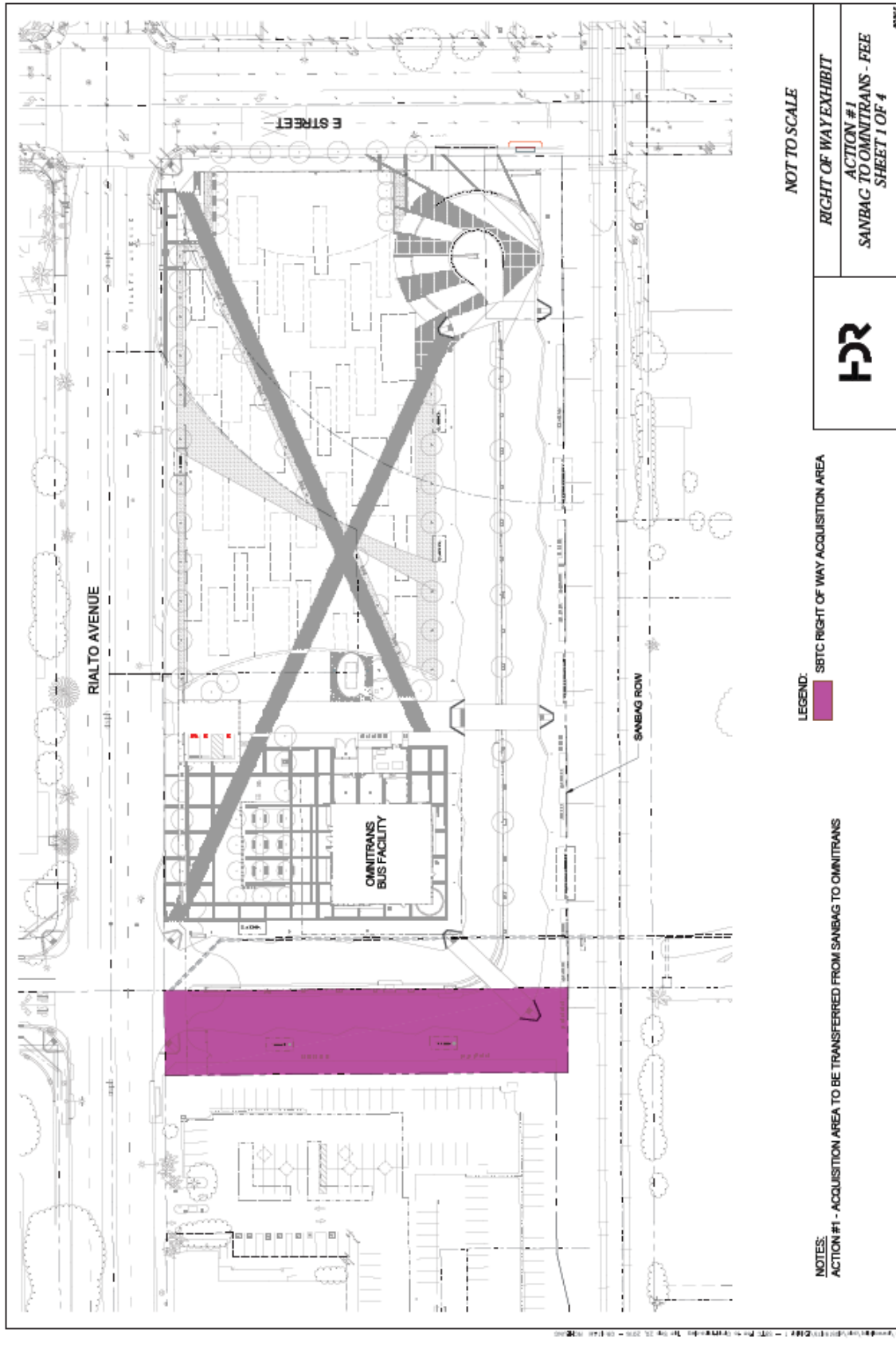
CONCLUSION

Staff recommends authorizing the CEO/General Manager to take all steps necessary to execute the four actions as discussed above (accept acquired property, dedicate roadway easements and storm drain easements, and execute lot line merger and lot line adjustment). These actions will complete the implementation of the SBTC in line with the concept and design for the SBTC site agreed upon between Omnitrans and SANBAG.

PSG:WW:AMJ

Attachments

Attachment A
Location of Property to be Accepted in Form Motion 1



Attachment B
Draft Quitclaim Deed for Form Motion 1

RECORDING REQUESTED BY:

San Bernardino County Transportation Commission
1170 W. 3rd Street, 2nd Floor
San Bernardino, California 92410-1715

WHEN RECORDED MAIL TO:

Omnitrans
1700 West Fifth Street
San Bernardino, CA 92411

APN(s):

EXEMPT FROM RECORDING FEES PER GOVT. CODE §27383
EXEMPT FROM DOCUMENTARY TRANSFER TAX PER REV. & TAX CODE §11922

QUITCLAIM DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, **San Bernardino County Transportation Commission (“Grantor”)**, do(es) hereby REMISE(S), RELEASE(S) and forever QUITCLAIM(S) to the **OMNITRANS**, a Joint Powers Authority (“Grantee”), the real property located in the City of San Bernardino, County of San Bernardino, State of California, more particularly described in the legal description attached hereto as Exhibit “A” and depicted or illustrated on the map attached hereto as Exhibit “B”; both of such attachments/exhibits are incorporated herein by this reference.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on the date set forth below.

Date: _____

GRANTOR:

San Bernardino County Transportation
Commission

By: _____

Its: _____

Name: _____

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

[illegible]

On _____ before me, _____,
Notary Public, personally appeared _____ who proved to
me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to
the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____ (SEAL)

EXHIBIT A
LEGAL DESCRIPTION
APN 0136-021-28

A portion of Lot 18, Block 11 of Map of Rancho San Bernardino, in the City of San Bernardino, County of San Bernardino, State of California, recorded in Book 7, Page 2 of Maps, in the Office of the County Recorder of said County, being a portion of land per that certain Final Order of Condemnation to the San Bernardino County Transportation Commission (SBCTC) per Document No. 2016-0229399, recorded June 10, 2016 in the Office of the County Recorder of said County, more particularly described as follows:

Beginning at the intersection of the East line of said Lot 18, with the North right-of-way of the former A.T. & S.F. railroad (50 feet wide) now vested with San Bernardino Associated Governments (SANBAG) per Document No. 93-137041, recorded March 29, 1993 in the Office of the County Recorder of said County, also being the Southeast corner of said SBCTC property; thence along the East line of said Lot 18 and the East line of said SBCTC property North 00°23'38" West 15.43 feet to the **True Point of Beginning**; thence leaving said East line South 89°36'40" West 65.00 feet; thence parallel with said East line North 00°23'38" West 310.65 feet to the South line of Rialto Avenue, 82.5 feet wide, dedicated per said Map, thence along said South line North 89°31'54" East 65.00 feet to said East line; thence leaving said South line and along said East line South 00°23'38" East 310.74 feet to the **True Point of Beginning**.

Said parcel contains 20,195 square feet, more or less.

Attached hereto is a plat labeled Exhibit B and by this reference made a part thereof.

Distances shown hereon are grid distances in U.S. Survey feet. To obtain ground level distances, multiply distance by 1/0.99993920. All bearings shown hereon are grid based upon the California Coordinate System, Zone 5, CCS83, (Epoch NSRS-2007). Bearings from reference deeds/maps may or may not be in terms of said system.

DRAFT

GARY L. HUS
LS 7019

DATE



LEGEND


- P.O.C.** INDICATES POINT OF COMMENCEMENT
- T.P.O.B.** INDICATES TRUE POINT OF BEGINNING
-  INDICATES FEE AREA

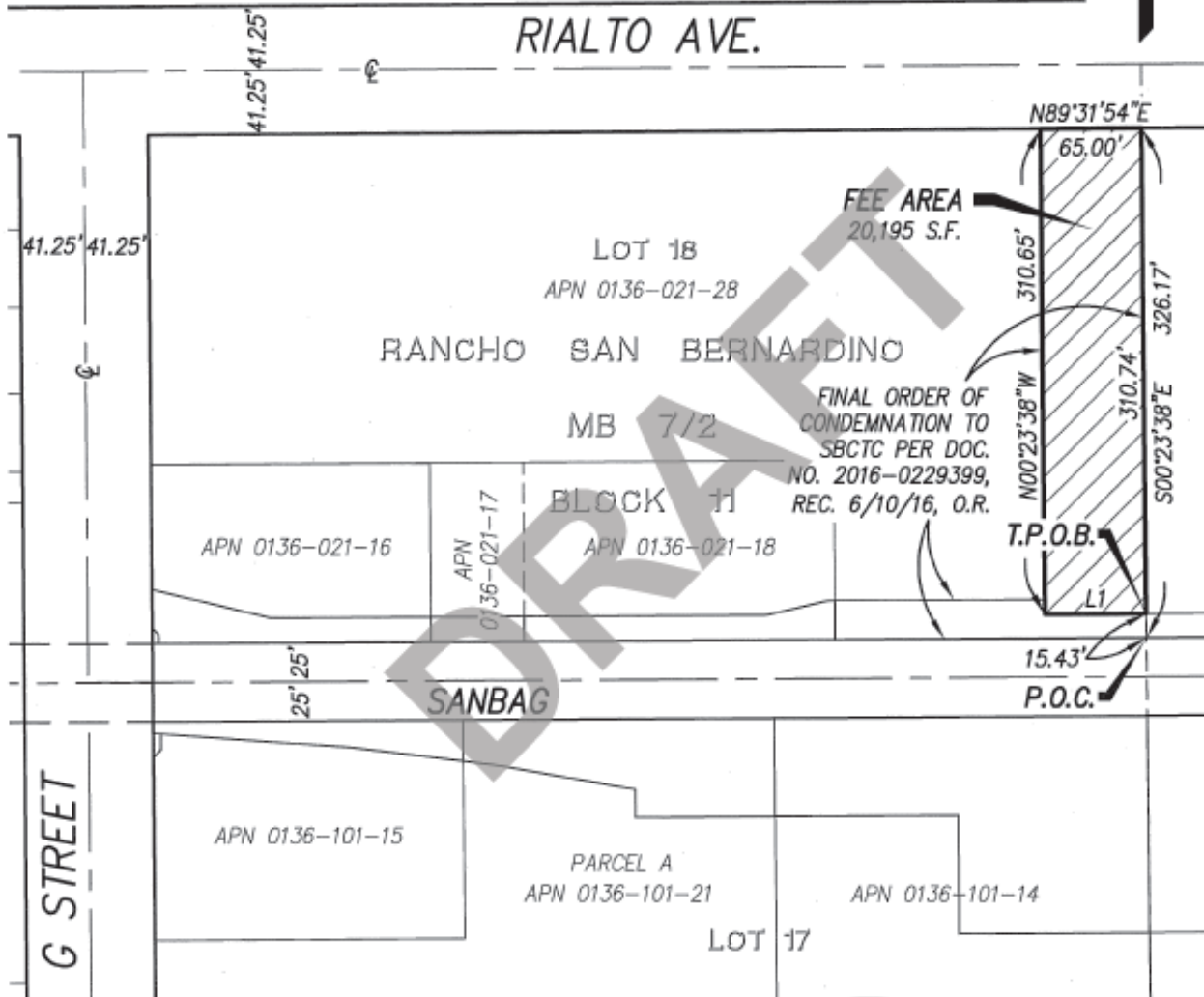
EXHIBIT B

APN 0136-021-28
City of San Bernardino, CA

SHEET 1 OF 1

LINE TABLE		
LINE	BEARING	LENGTH
L1	S89°36'40"W	65.00'

SCALE: 1"=100'

**DRAFT**

GARY L. HUS, L.S. 7019

DATE



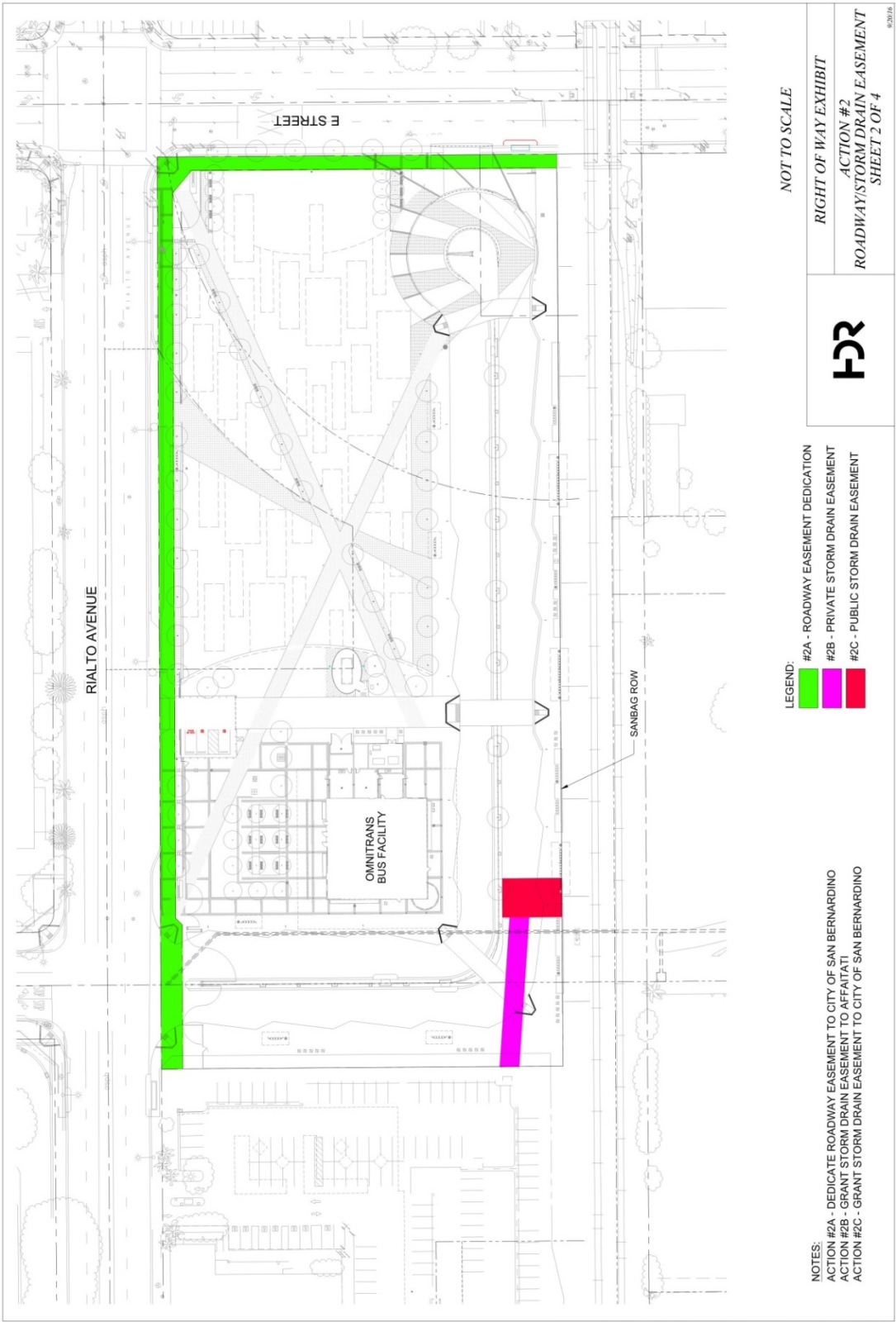
PROJECT DESIGN CONSULTANTS
Planning | Landscape Architecture | Engineering | Survey

701 B Street, Suite 800
San Diego, CA 92101
619.235.6471 Tel
619.234.0340 Fax



P:\3943\SURVEY_BNDRY\SURVEY_DWG\PLATS\SBCTC PROPERTY\LAND TRANSFER - SANBAG-OMNITRANS\3943-FEE AREA EXHIBIT.DWG

Attachment C
Location of Sidewalk and Storm Drain Easement Dedications



Attachment D
Grant of Easement to City of San Bernardino for Public Sidewalk

RECORDING REQUESTED BY:
OMNITRANS
1700 W. 5th Street
San Bernardino, CA 92411

WHEN RECORDED MAIL TO:
CITY OF SAN BERNARDINO
300 North D Street
San Bernardino, CA 92418

Portion of APN(s): 0136-021-24, 0136-021-28, 0136-021-32, 0136-021-34, & 0136-021-27/29	EXEMPT FROM RECORDING FEES PER GOVT. CODE §27383 EXEMPT FROM DOCUMENTARY TRANSFER TAX PER REV. & TAX CODE §11922
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EASEMENT DEED

Grant of Easement for Public Sidewalk and Pedestrian Purposes

FOR GOOD AND VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, OMNITRANS, a Joint Powers Authority ("Grantor") do(es) hereby GRANT(S) and CONVEY(S) to the City of San Bernardino, a public body, corporate and politic ("Grantee"), an easement for public sidewalk, walkway, [path] and/or [bike] path and pedestrian [as well as bicycle and similar vehicle] use, access, ingress and egress purposes, and appurtenances and uses associated therewith, including without limitation the installation and maintenance of a public sidewalk, together with any and all appurtenances pertaining thereto, over, above, on, under, in, across, along and through that certain portion of Grantor's real property located in the City of San Bernardino, County of San Bernardino, State of California, more particularly described in the legal description attached hereto as Exhibit "A" and depicted or illustrated on the map attached hereto as Exhibit "B"; both of such attachments / exhibits are incorporated herein by this reference.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on the date set forth below.

[Signatures appear on following page]

Dated: _____

OMNITRANS,
a Joint Powers Authority

By: _____

Its: _____

Name: _____

By: _____

Its: _____

Name: _____

DRAFT

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the within instrument to Grantee, the City of San Bernardino, California, a public body, corporate and politic, is hereby accepted by order of the City Council, and Grantee consents to the recordation thereof by its duly authorized officer.

CITY OF SAN BERNARDINO

By: _____
City Clerk

Date: _____

**EXHIBIT "A" TO
EASEMENT DEED**

LEGAL DESCRIPTION OF EASEMENT AREA

[APNs: 0136-021-24, 0136-021-28, 0136-021-32, 0136-021-34, & 0136-021-27/29]

[attached behind this page]

EXHIBIT A
LEGAL DESCRIPTION
APN 0136-021-24, 28, 32, 34 and 27/29

Public Right-of-Way Dedication (Rialto Avenue and "E" Street)

A portion of Parcels 1 and 2 of Parcel Map No. 1266, in the City of San Bernardino, County of San Bernardino, State of California, recorded in Book 11, Page 73 of Parcel Maps in the Office of the County Recorder of said County, together with a portion of Lots 1 and 18, in Block 11 of Map of Rancho San Bernardino, recorded in Book 7, Page 2 of Maps in the Office of the County Recorder of said County; more particularly described as follows:

Beginning at the Northeast corner of said Parcel 1, also being the intersection of the South right-of-way line of Rialto Avenue, 82.5 feet wide, with the West right-of-way line of "E" Street, 82.5 feet wide, both as dedicated per said Map of Rancho San Bernardino; thence along said West right-of-way line South 00°24'16" East 309.18 feet to the Southeast corner of that certain parcel of land granted to Omnitrans per Document No. 2014-0084886, recorded March 7, 2014 in the Office of the County Recorder of said County; thence leaving said West right-of-way line, along the Southerly boundary of said Omnitrans parcel South 89°36'40" West 10.75 feet; thence leaving said Southerly boundary, parallel with and 10.75 feet Westerly of, measured at right angles to said West right-of-way line North 00°24'16" 282.67 feet; thence North 50°02'50" West 22.90 feet to a point 11.75 feet Southerly of, measured at right angles to said South right-of-way line of Rialto Avenue; thence parallel with said South right-of-way line 89°45'05" West 561.04 feet; thence South 44°40'44" West 7.06 feet; thence South 89°45'05" West 111.54 feet; thence North 00°23'38" West 16.50 feet to a point on said South right-of-way line; thence along said South right-of-way line North 89°31'54" East 65.00 feet to the Northwest corner of said Parcel 1; thence continuing along said South right-of-way line North 89°45'05" East 640.77 feet to the **Point of Beginning**.

Said parcel contains 12,181 square feet or 0.280 acre, more or less.

Attached hereto is a plat labeled Exhibit B and by this reference made a part thereof. Distances shown hereon are grid distances in U.S. Survey feet. To obtain ground level distances, multiply distance by 1/0.99993920. All bearings shown hereon are grid based upon the California Coordinate System, Zone 5, CCS83, (Epoch NSRS-2007). Bearings from reference deeds/maps may or may not be in terms of said system.

PRELIMINARY

GARY L. HUS
LS 7019

DATE



PAGE 1 OF 1

**EXHIBIT "B" TO
EASEMENT DEED**

MAP OF EASEMENT AREA

[APNs: 0136-021-24, 0136-021-28, 0136-021-32, 0136-021-34, & 0136-021-27/29]

[attached behind this page]


EXHIBIT B

SHEET 1 OF 2

PUBLIC RIGHT-OF-WAY DEDICATION RIALTO AVENUE AND E STREET CITY OF SAN BERNARDINO, CA

LEGEND

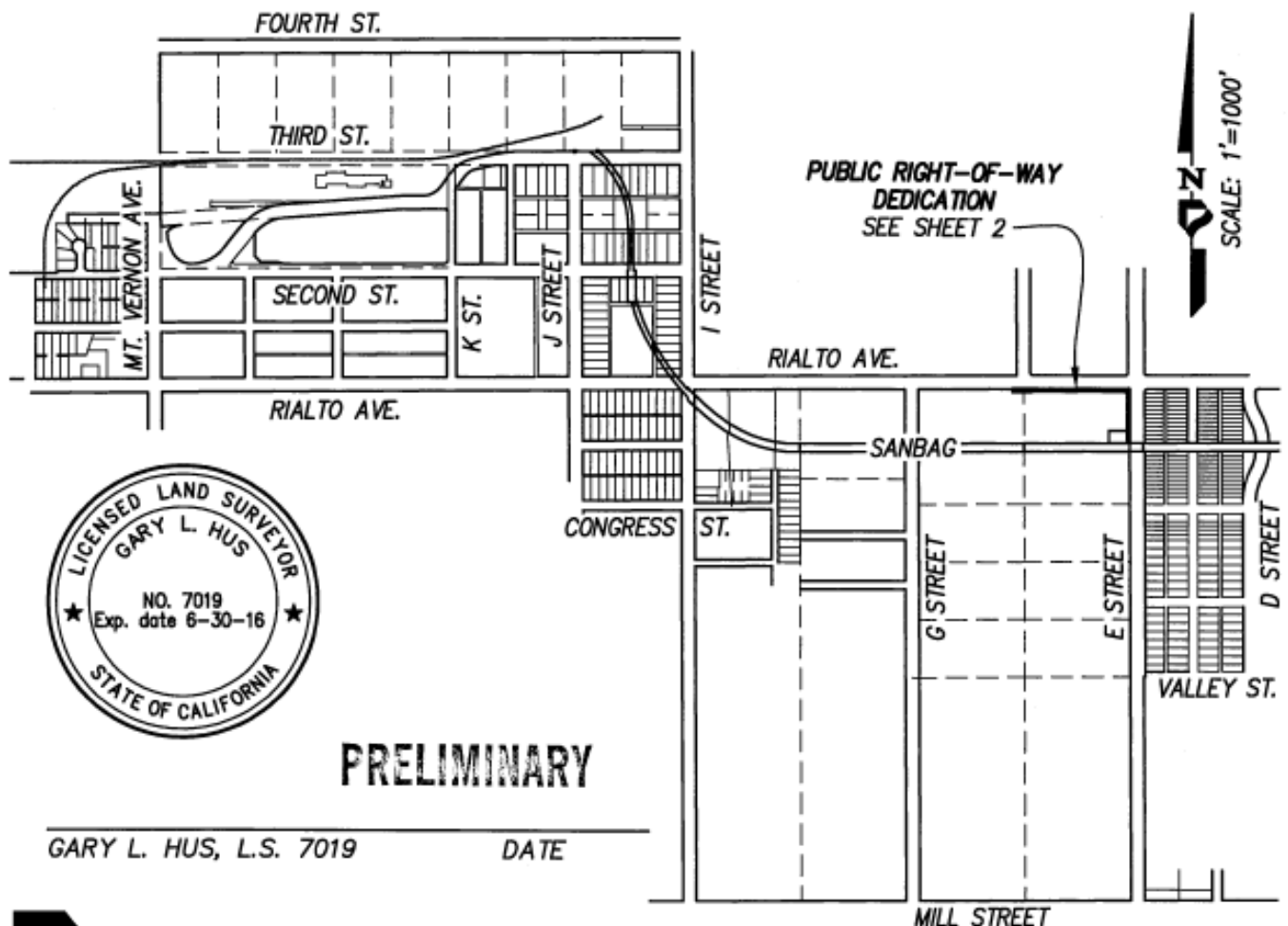
P.O.B. INDICATES POINT OF BEGINNING

 INDICATES PUBLIC RIGHT-OF-WAY DEDICATION (PORTIONS OF RIALTO AVE. AND E STREET)

AREA = 12,181 SQ. FT.
OR 0.280 AC.

BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS SURVEY IS THE CALIFORNIA COORDINATE SYSTEM, ZONE 5, CCS83, (EPOCH NSRS-2007) AS DETERMINED LOCALLY BY A LINE BETWEEN CONTINUOUS OPERATING REFERENCE STATIONS (CORS) "BMRY" AND "P612" BEING NORTH 51°15'41" WEST (GRID) AS DERIVED FROM GEODETIC VALUES PUBLISHED BY THE CALIFORNIA SPATIAL REFERENCE CENTER (CSRC) AND/OR NATIONAL GEODETIC SURVEY (NGS), RESPECTIVELY. DISTANCES SHOWN ON THIS SURVEY ARE GRID DISTANCES IN U.S. SURVEY FEET. TO OBTAIN GROUND LEVEL DISTANCES, MULTIPLY DISTANCES BY 1/0.99993920. BEARINGS FROM REFERENCE DEEDS/MAPS MAY OR MAY NOT BE IN TERMS OF SAID SYSTEM.



GARY L. HUS, L.S. 7019

DATE



PROJECT DESIGN CONSULTANTS
Planning | Landscape Architecture | Engineering | Survey

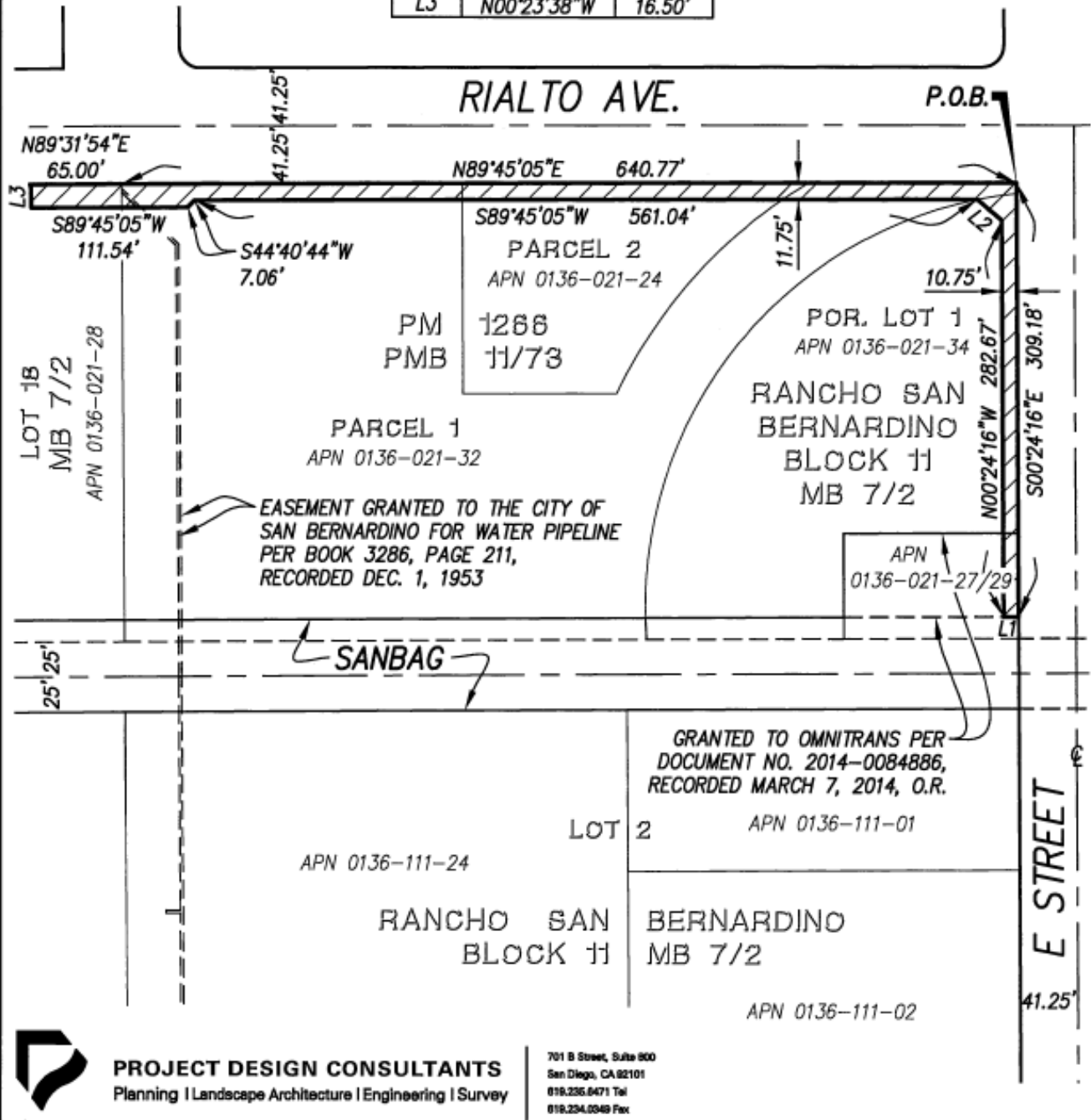
701 B Street, Suite 800
San Diego, CA 92101
619.235.9471 Tel
619.234.0340 Fax

EXHIBIT B

**PUBLIC RIGHT-OF-WAY DEDICATION
RIALTO AVENUE AND E STREET
CITY OF SAN BERNARDINO, CA**



LINE TABLE		
LINE	BEARING	LENGTH
L1	S89°36'40"W	10.75'
L2	N50°02'50"W	22.90'
L3	N00°23'38"W	16.50'



PROJECT DESIGN CONSULTANTS
Planning | Landscape Architecture | Engineering | Survey

701 B Street, Suite 800
San Diego, CA 92101
619.235.6471 Tel
619.234.0240 Fax

P:\3943\SURVEY_BNDRY\SURVEY_DWG\PLATS\SBTC PROPERTY\RIALTO AVE - ROW DEDICATION\3943_RIALTO AVE ROW DEDICATION-SHT2.DWG

Attachment E
Grant of Easement to City of San Bernardino for Storm Drain

RECORDING REQUESTED BY:

Omnitrans
1700 W. Fifth Street
San Bernardino, CA 92411

WHEN RECORDED MAIL TO:

City of San Bernardino
300 North D Street
San Bernardino, CA 92418

Portion of APN(s): 0136-021-32

EXEMPT FROM RECORDING FEES PER GOVT. CODE §27383
EXEMPT FROM DOCUMENTARY TRANSFER TAX PER REV. & TAX CODE §11922

GRANT OF EASEMENT

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, OMNITRANS, a Joint Powers Authority ("Grantor") do(es) hereby GRANT(S) and CONVEY(S) to City of San Bernardino, a public body, corporate and politic ("Grantee"), and its successors and assigns, a perpetual, nonexclusive easement and right-of-way, for and the right to construct, reconstruct, repair, replace, operate, maintain, and use for STORM DRAIN PURPOSES and necessary devices and appurtenances thereto in, on, over, under, along, and above that certain portion of the Grantor's real property located in the City of San Bernardino, County of San Bernardino, State of California, more particularly described in the legal description attached hereto as Exhibit "A" and depicted or illustrated on the map attached hereto as Exhibit "B"; both of such attachments/exhibits are incorporated herein by this reference.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on the date set forth below.

Dated: _____

GRANTOR:

**OMNITRANS,
a Joint Powers Authority**

By: _____

Its: _____

Name: _____

By: _____

Its: _____

Name: _____

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____ before me, _____,
Notary Public, personally appeared _____ who proved to
me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to
the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

(SEAL)

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the within instrument to Grantee, the City of San Bernardino, California, a public body, corporate and politic, is hereby accepted by order of the City Council, and Grantee consents to the recordation thereof by its duly authorized officer.

CITY OF SAN BERNARDINO

By: _____
City Clerk

Date: _____

**EXHIBIT "A" TO
EASEMENT DEED**

LEGAL DESCRIPTION OF EASEMENT AREA
[APN: 0136-021-32]

[attached behind this page]

EXHIBIT A
LEGAL DESCRIPTION
APN 0136-021-32

Public Drainage Easement

A portion of Parcel 1 of Parcel Map No. 1266, in the City of San Bernardino, County of San Bernardino, State of California, recorded in Book 11, page 73 of Parcel Maps in the Office of the County Recorder of said County, described as follows:

Commencing at the Southwest corner of said Parcel 1, said corner being on the North right-of-way of the former A.T. & S.F. railroad (50 feet wide) now vested with San Bernardino Associated Governments (SANBAG) per Document No. 93-137041, recorded March 29, 1993 in the Office of the County Recorder of said County; thence along the West line of said Parcel 1, North 00°23'38" West 15.43 feet to the Northwest corner of that certain parcel of land granted to SANBAG per Document No. 2014-0084887, recorded March 7, 2014 in the Office of the County Recorder of said County; thence leaving said West line, along the Northerly boundary of said SANBAG parcel, North 89°36'40" East 50.75 feet to the **True Point of Beginning**; thence leaving said Northerly boundary North 00°23'20" West 46.00 feet; thence North 89°36'40" East 30.00 feet; thence South 00°23'20" East 46.00 feet to a point on said Northerly boundary, thence along said Northerly boundary South 89°36'40" West 30.00 feet to the **True Point of Beginning**.

Said parcel contains 1,380 square feet, more or less.

Attached hereto is a plat labeled Exhibit B and by this reference made a part thereof. Distances shown hereon are grid distances in U.S. Survey feet. To obtain ground level distances, multiply distance by 1/0.99993920. All bearings shown hereon are grid based upon the California Coordinate System, Zone 5, CCS83, (Epoch NSRS-2007). Bearings from reference deeds/maps may or may not be in terms of said system.

PRELIMINARY

GARY L. HUS
LS 7019

DATE



**EXHIBIT “B” TO
EASEMENT DEED**

**MAP OF EASEMENT AREA
[APN: 0136-021-32]**

[attached behind this page]

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Attachment F
Grant of Easement to Private Property Owner for Storm Drain

RECORDING REQUESTED BY:

Omnitrans
1700 W. Fifth Street
San Bernardino, CA 92411

WHEN RECORDED MAIL TO:

Affaitati LLC
393 W. Athol Street, Suite 2
San Bernardino, California 92401

Portion of APN(s): 0136-021-28 & 0136-021-32

EXEMPT FROM RECORDING FEES PER GOV'T. CODE §27383

EXEMPT FROM DOCUMENTARY TRANSFER TAX PER REV. & TAX CODE §11922

GRANT OF EASEMENT

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, OMNITRANS, a Joint Powers Authority ("Grantor") do(es) hereby GRANT(S) and CONVEY(S) to Affaitati LLC, a California limited liability company ("Grantee"), and its successors and assigns, an easement for storm drain purposes over, above, on, under, in, across, along and through, that certain portion of Grantor's real property located in the City of San Bernardino, County of San Bernardino, State of California, more particularly described in the legal description attached hereto as Exhibit "A" and depicted or illustrated on the map attached hereto as Exhibit "B"; both of such attachments/exhibits are incorporated herein by this reference.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on the date set forth below.

Dated: _____

GRANTOR:

OMNITRANS,
a Joint Powers Authority

By: _____

Its: _____

Name: _____

By: _____

Its: _____

Name: _____

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____ before me, _____,
Notary Public, personally appeared _____ who proved to
me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to
the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____ (SEAL)

**EXHIBIT "A" TO
GRANT OF EASEMENT**

LEGAL DESCRIPTION OF EASEMENT AREA
[APNs: 0136-021-28 & 0136-021-32]

[attached behind this page]

EXHIBIT A
LEGAL DESCRIPTION
APN 0136-021-28 and 32

Private Drainage Easement

A portion of Parcel 1 of Parcel Map No. 1266, in the City of San Bernardino, County of San Bernardino, State of California, recorded in Book 11, Page 73 of Parcel Maps in the Office of the County Recorder of said County, together with a portion of Lot 18, in Block 11 of Map of Rancho San Bernardino, recorded in Book 7, Page 2 of Maps in the Office of the County Recorder of said County; more particularly described as follows:

Commencing at the Southwest corner of said Parcel 1, said corner being on the North right-of-way of the former A.T. & S.F. railroad (50 feet wide) now vested with San Bernardino Associated Governments (SANBAG) per Document No. 93-137041, recorded March 29, 1993 in the Office of the County Recorder of said County; thence along the West line of said Parcel 1, North $00^{\circ}23'38''$ West 15.43 feet to the Northwest corner of that certain parcel of land granted to SANBAG per Document No. 2014-0084887, recorded March 7, 2014 in the Office of the County Recorder of said County; thence leaving said West line, along the Northerly boundary of said SANBAG parcel, North $89^{\circ}36'40''$ East 50.75 feet; thence leaving said Northerly boundary North $00^{\circ}23'20''$ West 24.67 feet to the **True Point of Beginning**; thence North $85^{\circ}49'12''$ West 116.12 feet; thence North $00^{\circ}23'20''$ West 15.05 feet; thence South $85^{\circ}49'12''$ East 116.12 feet; thence South $00^{\circ}23'20''$ East 15.05 feet to the **True Point of Beginning**.

Said parcel contains 1,742 square feet, more or less.

Attached hereto is a plat labeled Exhibit B and by this reference made a part thereof. Distances shown hereon are grid distances in U.S. Survey feet. To obtain ground level distances, multiply distance by 1/0.99993920. All bearings shown hereon are grid based upon the California Coordinate System, Zone 5, CCS83, (Epoch NSRS-2007). Bearings from reference deeds/maps may or may not be in terms of said system.

PRELIMINARY

GARY L. HUS
LS 7019

DATE



PAGE 1 OF 1

**EXHIBIT "B" TO
GRANT OF EASEMENT**

**MAP OF EASEMENT AREA
[APNs: 0136-021-28 & 0136-021-32]**

[attached behind this page]


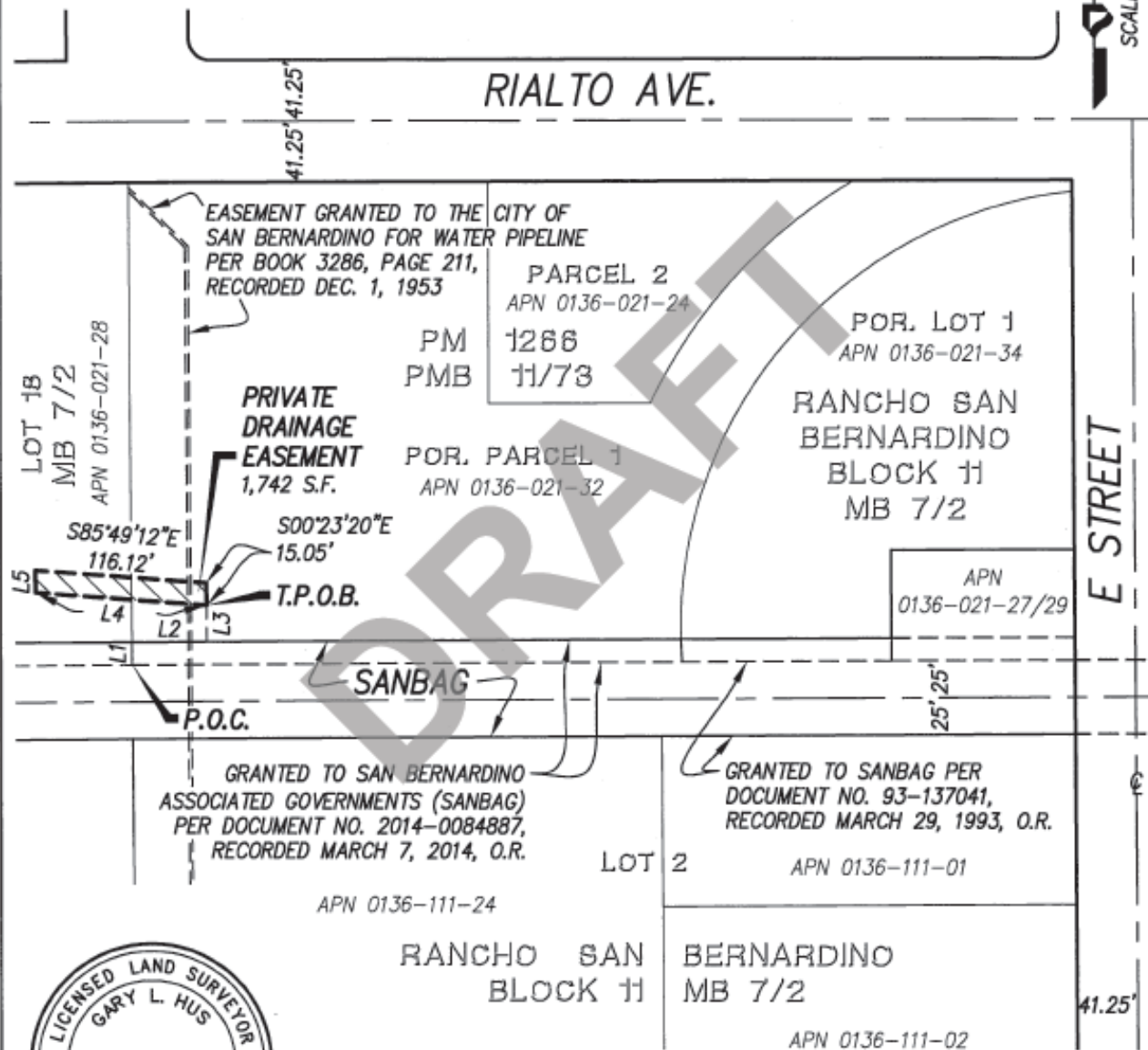
P.O.C. INDICATES POINT OF COMMENCEMENT
T.P.O.B. INDICATES TRUE POINT OF BEGINNING
 INDICATES PRIVATE DRAINAGE EASEMENT

EXHIBIT B **PRIVATE DRAINAGE EASEMENT** **CITY OF SAN BERNARDINO, CA**

SHEET 1 OF 1

N

SCALE: 1"=100'



PRELIMINARY

GARY L. HUS, L.S. 7019

DATE



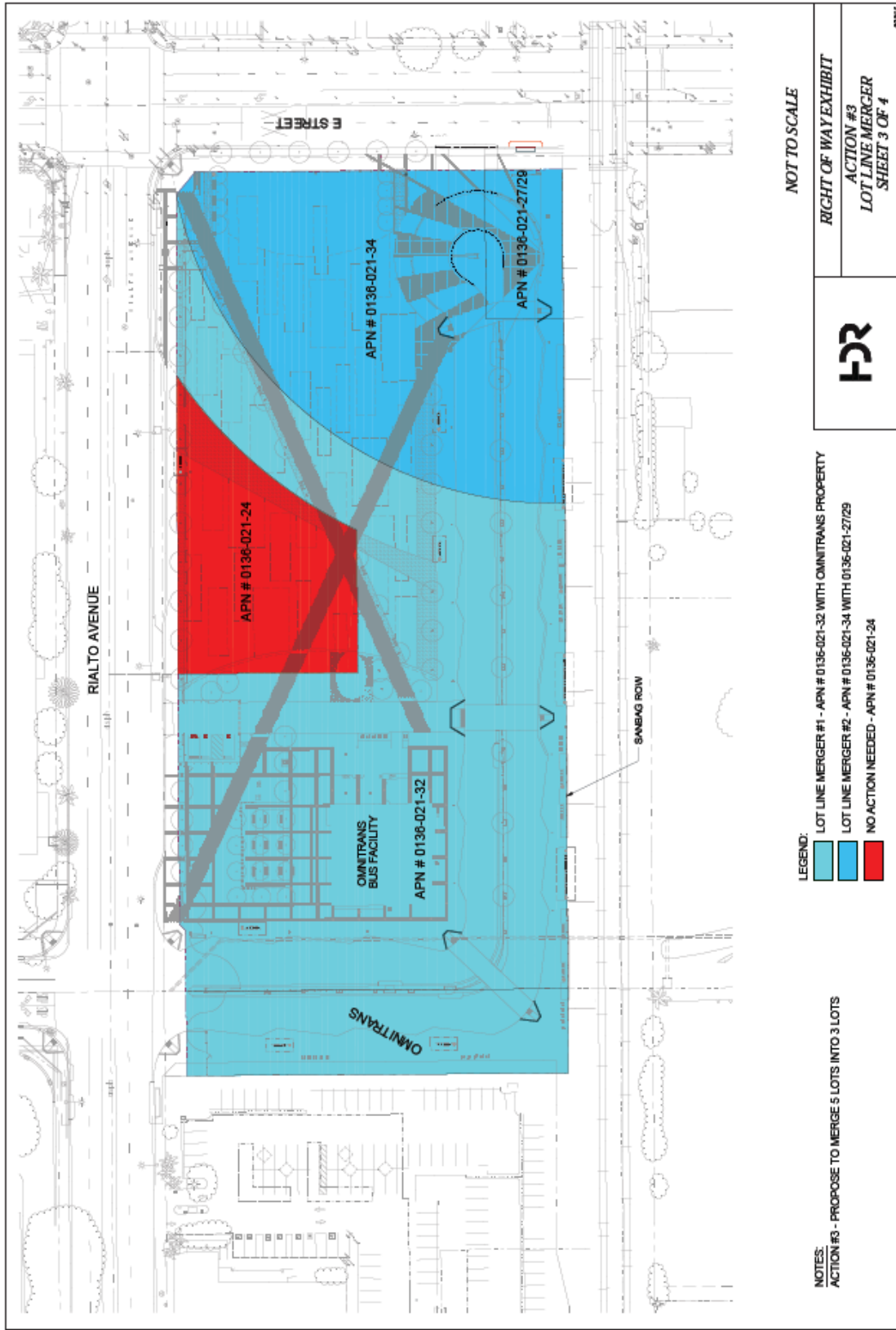
PROJECT DESIGN CONSULTANTS
Planning | Landscape Architecture | Engineering | Survey

701 B Street, Suite 600
San Diego, CA 92101
619.235.8471 Tel
619.234.0349 Fax

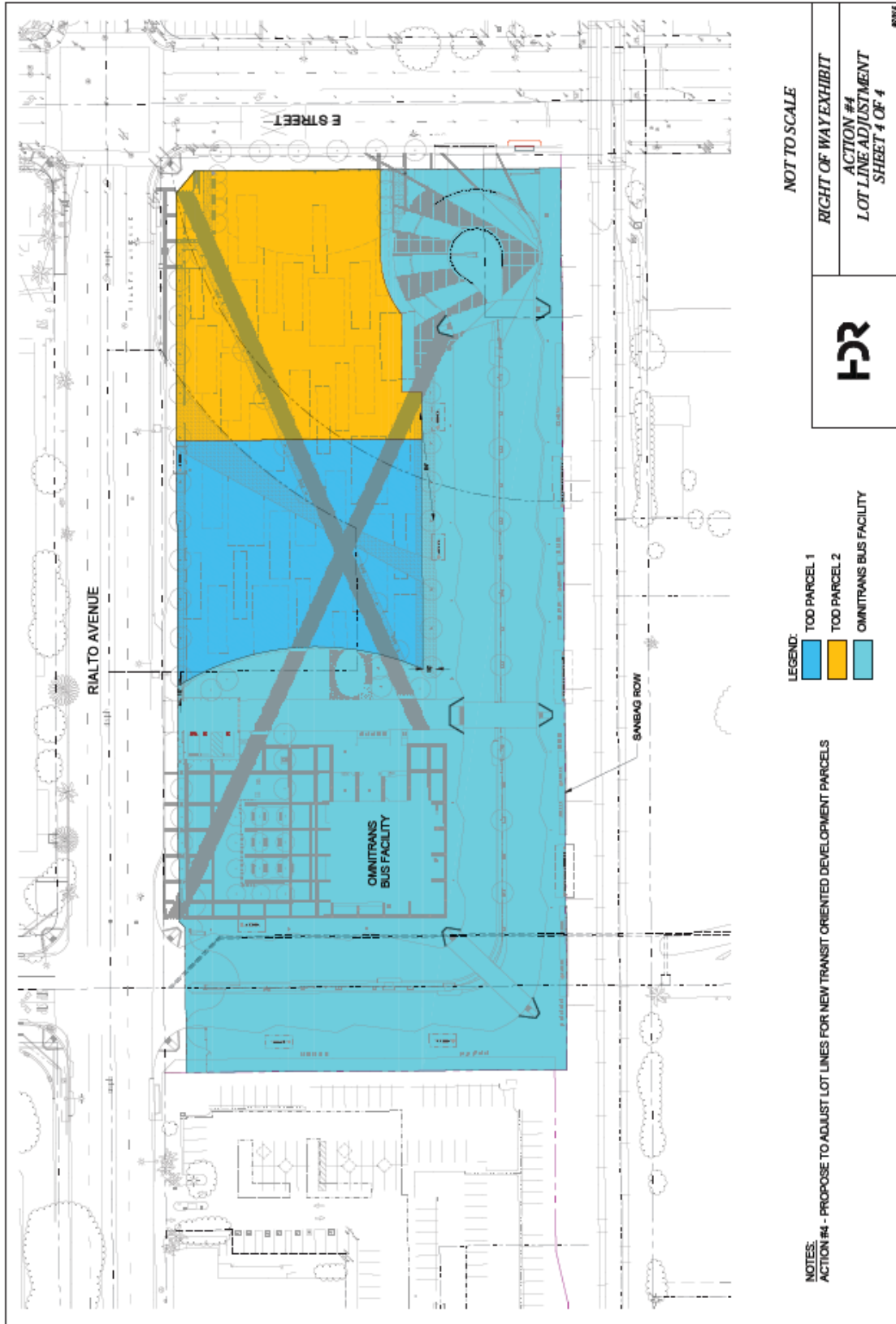
LINE TABLE		
LINE	BEARING	LENGTH
L1	N00°23'38"W	15.43'
L2	N89°36'40"E	50.75'
L3	N00°23'20"W	24.67'
L4	N85°49'12"W	116.12'
L5	N00°23'20"W	15.05'

P:\3943\SURVEY_BNDRY\SURVEY_DWG\PLATS\SBTC PROPERTY\DRAINAGE ESMT\3943_PRIVATE DRAINAGE ESMT.DWG

Attachment G **Proposed Lot Line Merger**



Attachment H **Proposed Lot Line Adjustment**



ITEM # _____ E5 _____

DATE: December 7, 2016

TO: Board Chair Sam Spagnolo and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Jennifer M. Sims, Director of Procurement

**SUBJECT: AUTHORIZE RELEASE – RFP-MNT17-57
UNIFORM AND TEXTILE SERVICES**

FORM MOTION

Authorize the CEO/General Manager to release Request for Proposals RFP-MNT17-57 for the provision of Uniform and Textile Services beginning October 1, 2017 for a three (3) year base period and (2) single option years ending March 6, 2022.

BACKGROUND

Omnitrans utilizes the services of two firms to provide uniform and textile services for Omnitrans' Operations, Maintenance, Procurement and Marketing staff. These services include the provision of uniforms, alterations and laundering services, shop towels, entry mats, fender covers, and dust mops. Staff recommends combining these contracts to benefit from economies of scale and increase efficiencies.

In accordance with the Procurement Policy 2000, Section 2.3.5.1.3 and FTA Circular 4220.1F, Board authorization and use of a formal procurement procedure is required to release Request for Proposals for procurements for good/services exceeding \$100,000. The Independent Cost Estimate for this project is \$954,534 if all options are exercised.

FUNDING SOURCE

The cost associated with this procurement is budgeted in various departments' Operating Budget as follows:

Department	Various
Expenditure Code	504230

_____ Verification of Funding Sources and Availability of Funds.
(Verified and initialed by Finance)

Short Range Transit Plan/Strategic Initiative Supported – N/A

CONCLUSION

By proceeding with this solicitation, Omnitrans will continue to provide uniform and textile services throughout the agency.

PSG:JMS:KT

ITEM # _____ E6 _____

DATE: December 7, 2016

TO: Board Chair Sam Spagnolo and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Jennifer M. Sims, Director of Procurement

SUBJECT: AUTHORIZE RELEASE – RFP-PRC17-51, ONLINE BIDDING SYSTEM

FORM MOTION

Authorize the CEO/General Manager to release Request for Proposals RFP-PRC17-51 for the provision of Online Bidding System services beginning August 1, 2017 for three (3) base years and two (2) single option years.

BACKGROUND

Omnitrans seeks proposals from firms to provide an Online Bidding System. On August 1, 2012, Omnitrans' Board of Directors authorized award to PlanetBids Inc. of Woodland Hills, CA, for the provision of Electronic Online Procurement Services under San Diego County Regional Airport Authority Agreement 800298 OB. The current contract is due to expire July 31, 2017.

In accordance with the Procurement Policy 2000, Section 2.3.5.1.3 and FTA Circular 4220.1F, Board authorization and use of a formal procurement procedure is required to release Request for Proposals for procurements for good/services exceeding \$100,000. The Independent Cost Estimate for this project is \$346,387, if all options are exercised.

FUNDING SOURCE

The cost associated with this procurement is budgeted in the Information Technology Department's Operating Budget as follows:

Department	1320
Expenditure Code	505170

_____ Verification of Funding Sources and Availability of Funds.
(Verified and initialed by Finance)

Short Range Transit Plan/Strategic Initiative Supported – N/A

CONCLUSION

By proceeding with this solicitation, Omnitrans will continue to utilize online bidding services.

PSG:JMS:KT

ITEM # _____ F1 _____

DATE: December 7, 2016

TO: Board Chair Sam Spagnolo and Members of the Omnitrans Board of Directors

FROM: P. Scott Graham, CEO/General Manager

SUBJECT: CEO/GENERAL MANAGER'S REPORT

Attended Redlands Rail Meeting with SANBAG on November 16. Topics discussed:

- Status of legal review of the draft Memorandum of Understanding between Omnitrans and SANBAG. Subsequent to that meeting, Omnitrans legal counsel's comments on the draft were forwarded to SANBAG for consideration. .
- Review of personnel applications for Director of Rail and Rail Compliance Officer; panel interviews are scheduled for January 25.
- Three potential bidders attended the Pre-Bid Conference for the Diesel Multiple Units (DMU)

Mayor Davis requested that free rides be provided on the sbX to Cal State SB on December 2nd to allow those attending the Remembrance Ceremony a transportation alternative. The free ride period is scheduled between 1730-2100. As most riders buy day passes earlier in the day, the cost of the gesture is minimal.

PSG:vd

ITEM # _____ F2 _____

DATE: December 7, 2016

TO: Board Chair Sam Spagnolo and Members of the Omnitrans Board of Directors

FROM: P. Scott Graham, CEO/General Manager

SUBJECT: PROPOSED BOARD MEETING SCHEDULE FOR 2017

FORM MOTION

Adopt Calendar Year 2017 Board Meeting Schedule, set for 8:00 a.m., the first Wednesday of each month, except as noted:

January 4, 2017
February 1, 2017
March 1, 2017
April 5, 2017
May 3, 2017
June 7, 2017
July 12, 2017*
August 2, 2017
September 6, 2017
October 4, 2017
November 1, 2017
December 6, 2017

*2nd Wednesday due to holiday. Please note that all dates coincide with SANBAG's proposed Board Meeting schedule for 2017, except for August, as SANBAG is dark that month.

PSG:vd

ITEM # _____ F3

DATE: December 7, 2016

TO: Board Chair Sam Spagnolo and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Marjorie Ewing, Director of Human Resources & Safety Regulatory Compliance

SUBJECT: DEPUTY GENERAL MANAGER POSITION

FORM MOTION

Recommend the Board of Directors authorize the CEO/General Manager to establish the position of Deputy General Manager as a contract position and negotiate salary and benefits for the position within or up to the market salary study completed in 2016 on a not to exceed the salary base of \$190,116.

This item was introduced in Closed Session at the Administrative and Finance Committee at its November 10, 2016, meeting, and forwarded to the Board of Directors for consideration.

BACKGROUND

The Deputy General Manager position was approved by the Board of Directors on July 1, 2015, with a Classification Level I within Omnitrans Personnel Policy #402 – Salary Ranges, Management Confidential Classifications. The recommended Form Motion will remove the position from Personnel Policy #402, and authorize the CEO/General Manager to negotiate the salary and benefits with the candidate selected for the position.

The Deputy General Manager will assist the CEO/General Manager in oversight of project development, system expansion, to include rail and special transportation services, and the day to day management of the Agency. In order for Omnitrans to attract, and compete, with the external labor market for high-level leadership talent, a competitive compensation package is essential and highly beneficial in negotiating an offer that recognizes both relevant leadership skills and prior work experience. The Agency's 2016 market salary study found a contract position will give the CEO/GM the flexibility and options to attract high caliber applicants.

FUNDING SOURCE

The cost associated with this action is included in the FY17 salary and benefit budget line items in the Executive Department.

Department: 1300
Account: Various

_____ Verification of Funding Source and Availability of Funds
(Verified and initialed by Finance)

CONCLUSION

Approval of this agenda item supports the Fiscal Year 2017 Management Plan, Strategic Initiative 6 –Workforce Development.

PSG: ME

ITEM # _____ F4

DATE: December 7, 2016

TO: Board Chair Sam Spagnolo and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Jennifer M. Sims, Director of Procurement

**SUBJECT: AUTHORIZE AWARD – CONTRACT MKP17-18
PASSENGER AND SBX CORRIDOR BUSINESS SURVEYS**

FORM MOTION

Authorize the CEO/General Manager to award Contract MKP17-18 to Redhill Group, Inc., of Irvine, CA, for the provision of Passenger and sbX Corridor Business Surveys in the amount of \$254,866, plus a contingency of \$10,000, for a not to exceed total amount of \$264,866.

BACKGROUND

The Federal Transit Administration (FTA) requires Small Starts grant recipients to complete a “Before-and-After Study” (Study) two years following the launch of revenue service of the federally assisted project. Omnitrans is required to conduct a study of the sbX Green line, which commenced revenue service on April 28, 2014.

The Study will compare key project components at three different time periods during the project’s lifecycle: 1) During planning phase; 2) Immediately prior to construction; and 3) After revenue service has had two years to mature. Key components of the Study include an evaluation of capital costs, transit service levels, operations and maintenance costs, ridership, economic development, and the impact on traffic.

On September 7, 2016, Omnitrans’ Board of Directors authorized the release of Request for Proposals RFP-MKP17-18. Notices were published in two local newspapers of general circulation and the solicitation was posted on Omnitrans’ online bidding system. Two proposals were received by the October 10, 2016 deadline and both were deemed responsive.

The following firms were evaluated in accordance with the selection criteria included in the RFP and are ranked from highest score to lowest score:

Selection Criteria	Total Points Possible	Redhill	Diversified
Project Approach	40	38.67	27.33
Experience / Qualifications	30	28.75	20.50
Sample of Work	10	9.17	5.33
Technical Score	80	76.59	53.16
Cost/Price	20	18.13	20.00
Totals	100	94.72	73.16

Redhill Group, Inc. (Redhill) scored highest technically and overall. Redhill's survey methodology included a detailed evaluation of the travel pattern data generated from the Origin, Boarding Alighting and Destination portion of the survey and tools that will facilitate further use of and analysis of this data.

Omnitrans entered into negotiations with Redhill resulting in a savings of \$5,104. The negotiated price of \$254,866 is within seven percent of the Independent Cost Estimate of \$274,560 and is deemed fair and reasonable.

This procurement meets the requirements of Omnitrans' Procurement Policies and Procedures.

FUNDING SOURCES

The cost associated with this procurement is budgeted in Omnitrans' Capital budget as follows:

FUNDING	GRANT	YEAR	PROJECT NAME	INTERNAL ORDER	AMOUNT
Prop 1B	Prop 1B	2008	sbX After Study	X09F00003P	\$264,866

_____ Verification of Funding Source and Availability of Funds
(Verified and initialed by Finance)

Short Range Transit Plan/Strategic Initiative Supported – N/A

CONCLUSION

By proceeding with this award, Omnitrans will have the necessary data to complete the Before & After Study for the E-Street Corridor project.

PSG:JMS:CVM



CONTRACT AGREEMENT

between

CONSULTANT
Redhill Group, Inc.
18010 Skypark Circle, Suite 275
Irvine, CA 92614

(hereinafter "CONSULTANT")
Telephone: 949-752-5900 x901
Email: mmccooourt@redhillgroup.com

And

Omnitrans
1700 West Fifth Street
San Bernardino, CA 92411
(hereinafter "OMNITRANS")

CONTRACT DOCUMENTS

CONTRACT NO. MKP17-18

**PASSENGER & SBX CORRIDOR
BUSINESS SURVEYS**

Contract Amount: \$254,866

Omnitrans Project Manager:

Name: Jeremiah Bryant
Title: Service Planning Manager
Telephone: (909) 379-7252
Email: jeremiah.bryant@omnitrans.org

Contract Administrator:

Name: Christine Van Matre
Title: Contract Administrator
Telephone: (909) 379-7122
Email: christine.vanmatre@omnitrans.org



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ATTACHMENT A – SCOPE OF WORK

ATTACHMENT B – PRICING

This Agreement is made and entered into as of this ____ day of _____, 2016 by and between Omnitrans (hereinafter referred to as "OMNITRANS") and Redhill Group, Inc. (hereinafter referred to as "CONSULTANT").

RECITALS

WHEREAS, OMNITRANS is a joint powers authority organized under Sections 6500 et seq. of the California Government Code with power to contract for services described in Attachment A to this Agreement entitled "Attachment A, Scope of Work" (hereinafter referred to as "Work");

WHEREAS, CONSULTANT has indicated it is qualified to perform such services and (1) has reviewed all the available data furnished by OMNITRANS pertinent to the Work to be rendered; (2) has inspected and reviewed the Work to be rendered; (3) will exercise the ordinary care and skill expected of a practitioner in its profession; and (4) is willing to accept responsibility of performing the Work set forth in this Agreement for the compensation and in accordance with the terms, requirements and conditions herein specified;

NOW, THEREFORE, for the consideration hereinafter stated, the parties agree as follows:

1. SCOPE OF WORK

- A. CONSULTANT will perform the Work and related tasks as described in Attachment A, Scope of Work hereto and is incorporated by reference into and made a part of this Agreement.
- B. This is a non-exclusive Agreement, whereby OMNITRANS may, at its sole discretion, augment or supplant the Work with its own forces or forces of another consultant or entity. CONSULTANT will cooperate fully with OMNITRANS' staff or other consultant or entity that may be providing similar or the same Work for OMNITRANS.

2. PERIOD OF PERFORMANCE

The term of this Agreement shall be from the date of execution of this Agreement and continue in effect through _____, unless terminated as specified in Section 10 and 11 of this Agreement. Omnitrans has no obligation to purchase any specified amount of products/services. All applicable indemnification provisions in this Agreement shall remain in effect following the termination of this Agreement.

Omnitrans' election to extend the Agreement beyond the Initial Term shall not diminish its right to terminate the Agreement for Omnitrans' convenience or CONSULTANTS default as provided elsewhere in this Agreement.

3. CONTRACT OPTIONS

- A. Omnitrans will have the unilateral right in the contract by which, for a specified time, Omnitrans may elect to purchase additional services called for by the contract, or may elect to extend the term of the contract. The requirements below apply:
 - 1) Any options that were requested by Omnitrans and/or contained in the Consultant's PROPOSAL or offer must have been evaluated in making the contract award prior to exercising any such options.
 - 2) Since Consultant's proposed pricing for the option years and additional services are considered in evaluating the Consultant's original proposal and form the basis for awarding the contract, Consultant shall be bound by the proposal pricing for additional services and/or option years, unless otherwise provided herein.
- B. Omnitrans will provide a minimum of thirty days (30) written notice to the Consultant of Omnitrans' exercise of its option to extend the contract years. Omnitrans may give notice of its exercise of the option for additional services at any time during the term of the contract. The minimum time for the written notice may be waived by mutual agreement.

4. COMPENSATION

For CONSULTANT's full and complete performance of its obligations under this Agreement, OMNITRANS shall pay CONSULTANT on a FIXED PRICE basis at the fully burdened fixed rates shown in Attachment B, Pricing, and subject to the maximum cumulative payment obligation.

OMNITRANS' maximum cumulative payment obligation under this Agreement shall not exceed Two Hundred Fifty-Four Thousand Eight Hundred Sixty-Six Dollars (\$254,866), including all amounts payable to CONSULTANT for all costs, including but not limited to direct labor, other direct costs, subcontracts, indirect costs including, but not limited to, leases, materials, taxes, insurance, and profit.

5. INVOICING AND PAYMENT

- A. CONSULTANT shall invoice OMNITRANS on a monthly basis no later than the 15th of each month. CONSULTANT shall furnish information as may be requested by OMNITRANS to substantiate the validity of an invoice.

CONSULTANT shall submit invoices in duplicate to:

OMNITRANS
1700 West Fifth Street
San Bernardino, CA 92411
Attn: Accounts Payable

Accountspayable@omnitrans.org

A separate invoice shall be used for each shipment. Each invoice shall include, at minimum, the following information:

- Contract number
- Invoice number
- Description of delivery
- Delivery Date
- Total quantity delivered
- Information as requested by OMNITRANS

- B. OMNITRANS shall remit payment within thirty (30) calendar days of approval of the invoices by OMNITRANS' Project Manager.

In the event OMNITRANS should overpay CONSULTANT, such overpayment shall not be construed as a waiver of OMNITRANS' right to obtain reimbursement for the overpayment. Upon discovering any overpayment, either on its own or upon notice of OMNITRANS, CONSULTANT shall immediately reimburse OMNITRANS the entire overpayment or, at its sole discretion, OMNITRANS may deduct such overpayment amount from monies due to CONSULTANT under this Agreement or any other Agreement between OMNITRANS and CONSULTANT.

6. AUDIT AND INSPECTION OF RECORDS

CONSULTANT agrees that OMNITRANS or any duly authorized representative shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, time cards, employment records or other records relating to this Agreement. Such material, including all pertinent cost, accounting, financial records, and proprietary data must be kept and maintained by CONSULTANT for a period of three (3) years after completion of this Agreement unless OMNITRANS' written permission is given to CONSULTANT to dispose of material prior to this time.

7. NOTIFICATION

All notices hereunder concerning this Agreement and the Work to be performed shall be physically transmitted by courier, overnight, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

To OMNITRANS:

Omnitrans
1700 West Fifth Street
San Bernardino, CA 92411
Attn: Christine Van Matre
Contract Administrator

To CONSULTANT:

Redhill Group, Inc.
18010 Skypark Circle, Suite 275
Irvine, CA 92614
Attn: Mark McCourt
Principal

8. OMNITRANS' AND CONSULTANT'S REPRESENTATIVES

A. OMNITRANS' Project Manager

Contracting Officer: OMNITRANS' CEO/General Manager or his authorized designee who has authority to execute contracts on behalf of OMNITRANS.

Project Manager: Jeremiah Bryant, Service Planning Manager

- a. Except as expressly specified in this Agreement, the Contracting Officer may exercise any powers, rights and/or privileges that have been lawfully delegated by OMNITRANS. Nothing in this Agreement should be construed to bind OMNITRANS for acts of its officers, employees, and/or agents that exceed the delegation of authority specified herein.
- b. The Contracting Officer has delegated to the Project Manager certain powers and duties in connection with this Agreement. The Project Manager is the authorized representative of the Contracting Officer for matters related to this Agreement. The Project Manager or his/her designee is empowered to:
 1. Have general oversight of the Work and this Agreement, including the power to enforce compliance with this Agreement.
 2. Reserve the right to remove any portion of the Work from CONSULTANT which have not been performed to OMNITRANS' satisfaction.
 3. Subject to the review and acceptance by OMNITRANS, negotiate with CONSULTANT all adjustments pertaining to this Agreement for revision.

- c. In addition to the foregoing, the Project Manager shall have those rights and powers expressly set forth in other sections of this Agreement.

B. Consultant's Key Personnel

The following are CONSULTANT's key personnel and their associated roles in the Work to be provided:

<u>Name</u>	<u>Role</u>
Mark McCourt	Project Director
Judith Fairweather McCourt	Project Manager, Moderator

Any propose/substitution or replacement by Consultant of Consultant's key personnel shall ensure that such person possesses the same or better expertise and experience than the key personnel being substituted or replaced. Omnitrans reserves the right to interview such person to ascertain and verify if such proposed substitution or replacement does in deed possess such expertise and experience.

OMNITRANS awarded this Agreement to CONSULTANT based on OMNITRANS' confidence and reliance on the expertise of CONSULTANT's key personnel described above. CONSULTANT shall not reassign key personnel or assign other personnel to key personnel roles until CONSULTANT obtains prior written approval from OMNITRANS.

9. DISPUTE RESOLUTION

Any disputes between the successful CONSULTANT and OMNITRANS relating to the implementation or administration of the Contract shall be resolved in accordance with this section.

- A. The parties shall first attempt to resolve the dispute informally in meetings or communications between proposer and OMNITRANS.
- B. If the dispute remains unresolved fifteen (15) days after it first arises, proposer may request that Omnitrans' CEO/General Manager issue a recommended decision on the matter in dispute. Omnitrans' CEO/General Manager shall issue the recommended decision in writing and provide a copy to proposer.
- C. If the dispute remains unresolved after review by Omnitrans' CEO/General Manager, either party may seek judicial resolution of the dispute in an appropriate Court of the State of California.

- D. Pending final resolution of a dispute under this section, proposer shall proceed diligently with performance in accordance with the Contract and Omnitrans' CEO/General Manager's recommended decision.

10. TERMINATION FOR CONVENIENCE

OMNITRANS may terminate this Agreement in whole or in part for OMNITRANS' convenience. Omnitrans' CEO/General Manager shall terminate this Agreement by a written Notice of Termination to CONSULTANT specifying the nature, extent, and effective date of the termination. Upon receipt of the notice of termination, CONSULTANT shall immediately discontinue all Work affected and deliver all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Agreement, whether completed or in process, to Omnitrans' CEO/General Manager. OMNITRANS shall make an equitable adjustment in the Agreement for Work already performed, but shall not allow anticipated profit on unperformed services. Force Majeure shall apply.

11. TERMINATION FOR BREACH OF AGREEMENT

- A. If CONSULTANT fails to perform any of the provisions of this Agreement or so fails to make progress as to endanger timely performance of this Agreement, OMNITRANS may give CONSULTANT written notice of such default. If CONSULTANT does not cure such default or provide a plan to cure such default which is acceptable to OMNITRANS within the time permitted by OMNITRANS, then OMNITRANS may terminate this Agreement due to CONSULTANT's breach of this Agreement.
- B. If a federal or state proceeding for relief of debtors is undertaken by or against CONSULTANT, or if CONSULTANT makes an assignment for the benefit of creditors, then OMNITRANS may immediately terminate this Agreement.
- C. If CONSULTANT violates Section 28, Compliance with Lobbying Policies, of this Agreement, then OMNITRANS may immediately terminate this Agreement.
- D. In the event OMNITRANS terminates this Agreement as provided in this Section, OMNITRANS may procure, upon such terms and in such manner as OMNITRANS may deem appropriate, Work similar in scope and level of effort to those so terminated, and CONSULTANT shall be liable to OMNITRANS for all of its costs and damages, including, but not limited, any excess costs for such Work.
- E. All finished or unfinished documents and materials produced or procured under this Agreement shall become OMNITRANS' property upon date of such termination.

- F. If, after notice of termination of this Agreement under the provisions of this Section, it is determined for any reason that CONSULTANT was not in default under the provisions of this Section, or that the default was excusable under the terms of this Agreement, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Section 10, Termination for Convenience.
- G. The rights and remedies of OMNITRANS provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

12. ASSIGNMENT

This Agreement, any interest herein or claim hereunder, may not be assigned by CONSULTANT either voluntarily or by operation of law, nor may all or any part of this Agreement be subcontracted by CONSULTANT, without the prior written consent of OMNITRANS. Consent by OMNITRANS shall not be deemed to relieve CONSULTANT of its obligations to comply fully with all terms and conditions of this Agreement.

13. SUBCONTRACTING

OMNITRANS hereby consents to CONSULTANT's subcontracting of portions of the Work to the parties identified below for the functions described in CONSULTANT's proposal. CONSULTANT shall include in each subcontract agreement the stipulation that CONSULTANT, not OMNITRANS, is solely responsible for payment to the subconsultant for all amounts owing and that the subconsultant shall have no claim, and shall take no action against OMNITRANS, Member Agencies or officers, directors, employees or sureties thereof for nonpayment by CONSULTANT.

Subconsultant's Name and Address	Work to Be Performed
JLM Staffing Solutions 111 West Ocean Blvd. #1580 Long Beach, CA 90802	Field Surveyors, Hiring, and Payroll Services
Cambridge Systematics 445 S. Figueroa S., Suite 3100 Los Angeles, CA 90071	GIS Reporting

14. INDEPENDENT CONSULTANT

CONSULTANT's relationship to OMNITRANS in the performance of this Agreement is that of an independent Consultant. CONSULTANT's personnel performing Work under this Agreement shall at all times be under CONSULTANT's exclusive direction and control and shall be employees of

CONSULTANT and not employees of OMNITRANS. CONSULTANT shall pay all wages, salaries and other amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.

15. INSURANCE

A. INSURANCE REQUIREMENTS

1) General Requirements for Consultant

- a. Without limiting or diminishing the Consultant's obligation to indemnify or hold Omnitrans harmless, Consultant shall procure, prior to commencement of the services required under this contract and maintain for the duration of the contract at its own expense, insurance of the kinds and in the amounts as indicated below;
- b. Provide Omnitrans with valid original certificates of insurance and endorsements showing Omnitrans as an additional insured.

2) Deductibles or Self-Insured Retention (SIR)

SIR must be declared to and approved by Omnitrans. At the option of Omnitrans, either: the insurer shall reduce or eliminate such deductibles or SIR or Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

3) Other Insurance Provisions

a. Commercial General Liability and Automobile Liability

Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed operations liability, personal and advertising injury covering claims which may arise from or out of Consultant's performance of its obligations hereunder and if Consultant's vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then Consultant shall maintain liability insurance for all owned, non-owned or hired vehicles so used. Policy shall name Omnitrans, its officers, officials, employees, agents and volunteers as additional insured as respects: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations of the scope of protection afforded Omnitrans, its officers, officials, employees, agents, and volunteers.

1. For any claims related to this project, Consultant's insurance coverage shall be primary insurance as respects Omnitrans, its officers, officials, employees, agents, and volunteers. Any insurance and/or deductibles and/or self-insured retentions or self-insured programs maintained by Omnitrans, its officers, officials, employees, agents, and volunteers shall be excess of Consultant's insurance and shall not be construed as contributory.
2. Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to Omnitrans.

b. Workers' Compensation

If the Consultant has employees as defined by the State of California, the Consultant shall maintain statutory Workers' compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of Omnitrans and, if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement.

c. Care, Custody, and Control

Consultant shall insure any Omnitrans property while under its Care, Custody, and Control according to the requirements listed in the insurance coverage required.

4) Acceptability of Insurers

Insurance companies shall be State of California admitted or approved and have a current **A.M. Best's** rating of no less than **A:VIII**.

5) Verification of Coverage

- a. Consultant shall furnish Omnitrans with original endorsements affecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All insurance certificates and endorsements are to be received and approved by Omnitrans before work commences.
- b. As an alternative, Consultant's insurer may provide complete, certified copies of all required insurance policies, including

endorsements affecting the coverage required by these specifications.

- c. In lieu of purchasing insurance and providing original endorsements and or certificates of insurance, the Consultant may provide proof of self-insurance; such proof must be to the satisfaction of Omnitrans.

6) **Subconsultants**

Consultant shall include all subconsultants as insureds under its policies or shall furnish separate certificates and endorsements for each subconsultant. All coverage for subconsultants shall be subject to all of the requirements stated herein.

7) **Notification of Terminated Insurance**

Insurance shall not be terminated or expire without thirty (30) days written notice, and are required to be maintained in force until completion of the contract.

B. **MINIMUM INSURANCE COVERAGE**

- 1) ☒ **Commercial General Liability including Products/Completed Operations:** \$1,000,000; per occurrence for bodily and property damage liability and \$2,000,000 aggregate; *Omnitrans named and endorsed as an Additional Insured.*
- 2) ☒ **Automobile Liability:** \$1,000,000; per occurrence for bodily and property damage liability and aggregate; *Omnitrans named and endorsed as an Additional Insured.*
- 3) ☒ **Errors and Omissions Liability:** \$1,000,000; combined single limit bodily and property damage liability per occurrence and \$ 3,000,000 aggregate or,
- 4) ☒ **Professional Liability:** \$1,000,000; per occurrence and aggregate.
- 5) ☒ **Workers' Compensation:** statutory limits or,
- 6) ☐ **Self Insurance Program:** a State Approved program in an amount and form that meets all applicable requirements of the Labor Code of the State of California.
- 7) ☒ **Employer's Liability:** \$1,000,000; per occurrence.
- 8) ☐ **Environmental Liability:** \$1,000,000; per occurrence and aggregate; *Omnitrans named and endorsed as an Additional Insured.*
- 9) ☐ **Umbrella Policy:** \$4,000,000; per occurrence and aggregate Additional coverage for the above policies, *Omnitrans Additional Insured.*

- 10) ☐ All drivers making deliveries of products specified on this solicitation shall have Hazardous Materials Endorsements on their Commercial Drivers License, and such other Endorsements as may be required by relevant laws and/or regulations.

16. INDEMNITY

CONSULTANT shall indemnify, defend and hold harmless OMNITRANS, and its member agencies, and their officers, directors, employees and agents from and against any and all liability, expense (including, but not limited to, defense costs and attorneys' fees), claims, causes of action, and lawsuits for damages of any nature whatsoever, including, but not limited to, bodily injury, death, personal injury or property damage (including property of CONSULTANT) arising from or connected with any alleged act and/or omission of CONSULTANT, its officers, directors, employees, agents, Subconsultants or suppliers. This indemnity shall survive termination or expiration of this Agreement and/or final payment thereunder.

17. REVISIONS IN SCOPE OF WORK

By written notice or order, OMNITRANS may, from time to time, order work suspension or make changes to this Agreement. Changes in the Work shall be mutually agreed to and incorporated into an amendment to this Agreement. Upon execution of an amendment, CONSULTANT shall perform the Work, as amended.

18. RIGHTS IN TECHNICAL DATA

- A. No material or technical data prepared by CONSULTANT under this Agreement is to be released by CONSULTANT to any other person or entity except as necessary for the performance of the Work. All press releases or information concerning the Work that might appear in any publication or dissemination, including but not limited to, newspapers, magazines, and electronic media, shall first be authorized in writing by OMNITRANS.
- B. The originals of all letters, documents, reports and other products and data produced under this Agreement shall become the property of OMNITRANS without restriction or limitation on their use and shall be made available upon request to OMNITRANS at any time. Original copies of such shall be delivered to OMNITRANS upon completion of the Work or termination of the Work. CONSULTANT shall be permitted to retain copies of such items for the furtherance of its technical proficiency; however, publication of this material is subject to the prior written approval of OMNITRANS. The provisions of this paragraph shall survive termination or expiration of this Agreement and/or final payment thereunder.

19. OWNERSHIP OF REPORTS AND DOCUMENTS

The originals of all letters, documents, reports and other products and data produced under this Agreement shall be delivered to, and become the sole and exclusive property of OMNITRANS. Copies may be made for CONSULTANT's records, but shall not be furnished to others without prior written authorization from OMNITRANS. Such deliverables shall be deemed works made for hire, and all rights in copyright therein shall be retained by OMNITRANS.

20. OWNERSHIP RIGHTS

- A. In the event OMNITRANS rightfully obtains copies of Proprietary Data under the terms of the separate License Agreement and Escrow Agreement that govern rights in Documentation, Software and Intellectual Property created and/or developed by Consultant, its Third Party Software Consultants and its Suppliers as part of the Project, any derivative works and associated documentation created by or on behalf of OMNITRANS by Permitted Programmers (as defined in the License Agreement) shall be the sole and exclusive property of OMNITRANS (collectively, "OMNITRANS Intellectual Property"), and OMNITRANS may use, disclose and exercise dominion and full rights of ownership, in any manner in OMNITRANS Intellectual Property in connection with the use, operation and maintenance of a transportation system administered by OMNITRANS. No use of OMNITRANS Intellectual Property shall be made for any purpose other than in conjunction with a transportation system administered by CONSULTANT, and OMNITRANS shall not sell, lease, rent, give away or otherwise disclose any OMNITRANS Intellectual Property to any outside third party other than Permitted Programmers. To the extent there may be any question of rights of ownership or use in any OMNITRANS Intellectual Property, Consultant shall require all of its subconsultants and suppliers (including without limitation its Third Party Software Consultants) to assign to OMNITRANS, all worldwide right, title and interest in and to all OMNITRANS Intellectual Property in a manner consistent with the foregoing terms of this paragraph. Consultant shall execute any documents as OMNITRANS may from time to time reasonably request to effectuate the terms of this paragraph.
- B. All documentation and Software which predates this Contract and which otherwise owned by Consultant or its Third Party Software Consultants, and all Documentation and Software which is created by Consultant or its Third Party Software Consultants shall be Licensed Software or Licensed Documentation, as appropriate. All Licensed Software and Licensed Documentation shall be governed by the License Agreement by and between the parties of event date herewith.

21. WORK FOR HIRE

Any work created or produced as a part of this Agreement that may be defined under Section 101, Title 17, USC will be considered "work for hire" as it pertains to ownership rights. CONSULTANT, by his/her endorsement hereon agrees that all rights to any work(s) created or produced are waived, and that ownership rests with OMNITRANS. CONSULTANT further agrees to ensure transfer of all rights to such work(s), as defined under federal copyright law, that may be created or produced under this Agreement by its suppliers, consultants or subconsultants.

22. SUBMITTAL OF CLAIMS BY CONSULTANT

CONSULTANT shall file any and all claims with OMNITRANS' Project Manager in writing within thirty (30) days of the event or occurrence giving rise to the claim. The claim shall be in sufficient detail to enable OMNITRANS to ascertain the claim's basis and amount, and shall describe the date, place and other pertinent circumstances of the event or occurrence giving rise to the claim and the indebtedness, obligation, injury, loss or damages allegedly incurred by CONSULTANT.

Even though a claim may be filed and/or in review by OMNITRANS, CONSULTANT shall continue to perform in accordance with this Agreement.

23. EQUAL OPPORTUNITY

CONSULTANT shall not discriminate against, or grant preferential treatment to, any individual or group, or any employee or applicant for employment because of race, age, religion, color, ethnicity, sex, national origin, ancestry, physical disability, mental disability, political affiliation, sexual orientation, marital status or other status protected by law. CONSULTANT shall take action to ensure that applicants and employees are treated without regard to the above.

24. STANDARD OF PERFORMANCE

- A. CONSULTANT shall perform and exercise, and require its subconsultants to perform and exercise due professional care and competence in the performance of the Work in accordance with the requirements of this Agreement. CONSULTANT shall be responsible for the professional quality, technical accuracy, completeness and coordination of the Work, it being understood that OMNITRANS will be relying upon such professional quality, accuracy, completeness and coordination in utilizing the Work. The foregoing obligations and standards shall constitute the "Standard of Performance" for purposes of this Agreement. The provisions of this paragraph shall survive termination or expiration of this Agreement and/or final payment thereunder.

- B. All workers shall have sufficient skill and experience to perform the Work assigned to them. OMNITRANS shall have the right, at its sole discretion, to require the immediate removal of CONSULTANT's personnel at any level assigned to the performance of the Work at no additional fee or cost to OMNITRANS, if OMNITRANS considers such removal in its best interests and requests such removal in writing and such request is not done for illegal reasons. Further, an employee who is removed from performing Work under this Agreement under this Article shall not be re-assigned to perform Work in any other capacity under this Agreement without OMNITRANS' prior written approval.

25. NOTIFICATION OF EMPLOYMENT OF OMNITRANS BOARD MEMBERS/ALTERNATES AND EMPLOYEES

To ensure compliance with OMNITRANS' Ethics Policy, CONSULTANT shall provide written notice to OMNITRANS disclosing the identity of any individual who CONSULTANT desires to employ or retain under a contract, and who (1) presently serves as a Board Member/Alternate or an employee of OMNITRANS, or (2) served as a Board Member/Alternate or an employee of OMNITRANS within the previous 12 months of the date of the proposed employment or retention by CONSULTANT. CONSULTANT's written notice shall indicate whether the individual will be an officer, principal or shareholder of the entity and/or will participate in the performance of this Agreement.

26. DISQUALIFYING POLITICAL CONTRIBUTIONS

In the event of a proposed amendment to this Agreement, CONSULTANT shall provide prior to the execution of such amendment, a written statement disclosing any contribution(s) of \$250 or more made by CONSULTANT or its subconsultant(s) to Omnitrans Board Members/Alternates or employees within the preceding twelve (12) months of the date of the proposed amendment. Applicable contributions include those made by any agent/person/entity on behalf of CONSULTANT or subconsultant(s).

27. COMPLIANCE WITH LAW

CONSULTANT shall familiarize itself with and perform the Work required under this Agreement in conformity with requirements and standards of OMNITRANS, municipal and public agencies, public and private utilities, special districts, and railroad agencies whose facilities and work may be affected by Work under this Agreement. CONSULTANT shall also comply with all Federal, state and local laws and ordinances.

28. COMPLIANCE WITH LOBBYING POLICIES

- A. CONSULTANT agrees that if it is a Lobbyist Employer or if it has retained a Lobbying Firm or Lobbyist, as such terms are defined by OMNITRANS

in its Ethics Policy, it shall comply or ensure that its Lobbying Firm and Lobbyist complies with OMNITRANS' Ethics Policy.

- B. If CONSULTANT (Lobbyist Employer) or its Lobbying Firm or Lobbyist fails to comply, in whole or in part, with OMNITRANS' Ethics Policy, such failure shall be considered a material breach of this Agreement and OMNITRANS shall have the right to immediately terminate or suspend this Agreement.

29. PUBLIC RECORDS ACT

- A. All records, documents, drawings, plans, specifications and other material relating to conduct of OMNITRANS' business, including materials submitted by CONSULTANT in its proposal and during the course of performing the Work under this Agreement, shall become the exclusive property of OMNITRANS and may be deemed public records. Said materials may be subject to the provisions of the California Public Records Act. OMNITRANS' use and disclosure of its records are governed by this Act.
- B. OMNITRANS will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act, including interpretations of the Act or the definitions of trade secret, confidential or proprietary. OMNITRANS will accept materials clearly and prominently labeled "TRADE SECRET" or "CONFIDENTIAL" or "PROPRIETARY" as determined by CONSULTANT. OMNITRANS will endeavor to notify CONSULTANT of any request of the disclosure of such materials. Under no circumstances, however, will OMNITRANS be liable or responsible for the disclosure of any labeled materials whether the disclosure is required by law or a court order or occurs through inadvertence, mistake or negligence on the part of OMNITRANS or its officers, employees and/or consultants.
- C. In the event of litigation concerning the disclosure of any material submitted by CONSULTANT, OMNITRANS' sole involvement will be as a stake holder, retaining the material until otherwise ordered by a court. CONSULTANT, at its sole expense and risk, shall be responsible for prosecuting or defending any action concerning the materials, and shall defend, indemnify and hold OMNITRANS harmless from all costs and expenses, including attorneys' fees, in connection with such action.

30. WAIVER/INVALIDITY

No waiver of a breach of any provision of this Agreement by either party shall constitute a waiver of any other breach of the provision, or of any other breach of the provision of the Agreement. Failure of either party to enforce any provision of this Agreement at any time shall not be construed as a waiver of that provision.

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

31. FORCE MAJEURE

Performance of each and all CONSULTANT's and OMNITRANS' covenants herein shall be subject to such delays as may occur without CONSULTANT's or OMNITRANS' fault from acts of God, strikes, riots, or from other similar causes beyond CONSULTANT's or OMNITRANS' control.

32. CONFIDENTIALITY

CONSULTANT agrees that for and during the entire term of this Agreement, any information, data, figures, records, findings and the like received or generated by CONSULTANT in the performance of this Agreement, shall be considered and kept as the private and privileged records of OMNITRANS and will not be divulged to any person, firm, corporation, or other entity except on the direct prior written authorization of OMNITRANS. Further, upon expiration or termination of this Agreement for any reason, CONSULTANT agrees that it will continue to treat as private and privileged any information, data, figures, records, findings and the like, and will not release any such information to any person, firm, corporation or other entity, either by statement, deposition, or as a witness, except upon direct prior written authority of OMNITRANS.

33. CONSULTANT'S INTERACTION WITH THE MEDIA AND THE PUBLIC

- A. OMNITRANS shall review and approve in writing all OMNITRANS related copy proposed to be used by CONSULTANT for advertising or public relations purposes prior to publication. CONSULTANT shall not allow OMNITRANS related copy to be published in its advertisements and public relations programs prior to receiving such approval. CONSULTANT shall ensure that all published information is factual and that it does not in any way imply that OMNITRANS endorses CONSULTANT's firm, service, and/or product.
- B. CONSULTANT shall refer all inquiries from the news media to OMNITRANS, and shall comply with the procedures of OMNITRANS' Public Affairs staff regarding statements to the media relating to this Agreement or the Work.
- C. If CONSULTANT receives a complaint from a citizen or the community, CONSULTANT shall inform OMNITRANS as soon as possible and inform OMNITRANS of any action taken to alleviate the situation.
- D. The provisions of this Article shall survive the termination or expiration of this Agreement.

34. GOVERNING LAW

The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of California, and the proper venue of any action brought hereunder is and shall be the County of San Bernardino, California.

35. MODIFICATIONS TO AGREEMENT

Unless specified otherwise in the Agreement, this Agreement may only be modified by written mutual consent evidenced by signatures of representatives authorized to enter into and modify the Agreement. In order to be effective, amendments may require prior approval by OMNITRANS' Board of Directors, and in all instances require prior signature of an authorized representative of OMNITRANS.

36. LICENSING, PERMITS AND INSPECTION COSTS

- A. The CONSULTANT warrants that it has all necessary licenses and permits required by the laws of the United States, State of California, and the County of San Bernardino, the Local Jurisdictions, and all other appropriate governmental agencies, and agrees to maintain these licenses and permits in effect for the duration of the Agreement. Further, FIRM warrants that its employees, agents, and consultants and subconsultants shall conduct themselves in compliance with such laws and licensure requirements including, without limitation, compliance with laws applicable to nondiscrimination, sexual harassment and ethical behavior throughout the duration of this Agreement. CONSULTANT further warrants that it shall not retain or employ an unlicensed subconsultant to perform work on this Project. CONSULTANT shall notify OMNITRANS immediately and in writing of its employees', agents', consultants' or subconsultants' inability to obtain or maintain, irrespective of the pendency of any appeal, any such licenses, permits, approvals, certificates, waivers, exemptions. Such inability shall be cause for termination of this Agreement.
- B. CONSULTANT shall procure all permits and licenses; pay all charges, assessments and fees, as may be required by the ordinances and regulations of the public agencies having jurisdiction over the areas in which the work is located, and shall comply with all the terms and conditions thereof and with all lawful orders and regulations of each such public agency relating to construction operations under the jurisdiction of such agency.

37. PRECEDENCE

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement, and any and all of its Amendments, Appendices, Exhibits and Attachments; (2) provisions of RFP-MKP17-18 and any and all of its Addenda, Appendices, Exhibits and Attachments; and (3) CONSULTANT's proposal dated October 10, 2016 and Best & Final Offer dated October 31, 2016.

38. ENTIRE AGREEMENT

This Agreement, and any attachments or documents incorporated herein by inclusion or by reference, constitutes the complete and entire agreement between OMNITRANS and CONSULTANT and supersedes any prior representations, understandings, communications, commitments, agreements or proposals, oral or written.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date shown below, and effective on the date first hereinabove written.

OMNITRANS

REDHILL GROUP, INC.

P. Scott Graham
CEO/General Manager

Mark McCourt
Principal

Date

Date

Federal Tax I.D. No33-0785457

DP 
CM 

ATTACHMENT A – SCOPE OF WORK
MKP17-18
PASSENGER & SBX CORRIDOR BUSINESS SURVEYS

1. INTRODUCTION

- A. The Federal Transit Administration (FTA) requires the completion of a “Before and After Study” to determine the effectiveness of Omnitrans’ sbX Bus Rapid Transit (BRT) Greenline service on the E Street Corridor (sbX Corridor) in San Bernardino and Loma Linda. The sbX Corridor was the culmination of a ten-year planning process including two years of construction. The sbX Corridor opened for service in April 2014. The service has had two years to mature and establish a new normal ridership pattern. In order to more fully determine the effectiveness of the sbX Corridor, Omnitrans desires to survey two groups: passengers and businesses.
- B. The first survey is primarily a passenger intercept survey of passengers both on the sbX Corridor and system-wide to identify any changes in ridership patterns, demographics, origins and destinations, travel habits, etc that may have resulted from the introduction of sbX. This will be the third part of a longitudinal survey series that began in 2007 during the planning process for sbX; followed by a 2011 survey designed to capture the before/existing condition. In 2016, two years after the opening of sbX, this survey project will utilize a very similar survey instrument and process compared to the 2011 survey, with the focus being 1) collection of the data and 2) an analysis and comparison of the data over the three survey periods. Once the surveys are completed, Omnitrans anticipates the need for four (4) focus groups to drill deeper into issues identified during the survey.
- C. The second survey is of businesses along the sbX corridor. This survey will be a new survey designed to determine business satisfaction with sbX service along the corridor. Omnitrans primarily sees this as a phone survey, but is willing to consider an intercept survey if it proves effective given the rider survey on the street. Omnitrans anticipates the need for two (2) focus groups to drill deeper into issues identified during the business survey.
- D. The ultimate goal of this survey project is to create a technical appendix that Omnitrans will use in submitting a comprehensive sbX Before and After Study to the Federal Transit Administration (FTA). The results of this study will be crucial in helping Omnitrans plan and deliver additional BRT corridors in the San Bernardino Valley.

2. PROJECT FOCUS

- A. A Survey Report shall be prepared that summarizes the major findings of Omnitrans’ system-wide fixed route, OmniGo and sbX on-board surveys, and telephone surveys for Access paratransit consistent with the level of effort for the 2011 surveys. A Survey Report shall be prepared that summarizes the major findings of the survey consistent with the 2011 surveys. Additionally, a business focused survey shall be

added in this survey compared to the 2011 survey effort. Additionally, a total of six focus groups shall be held to gain deeper insights based on the results of the surveys.

- B. The intercept survey requires extensive control to ensure that quality data are collected. The survey team shall design a set of survey management procedures and forms that will permit careful control of the survey and ensure adherence to the sample selected for the survey.
- C. Omnitrans' previous 2006 and 2011 on-board rider surveys used a 10% sample size of average weekday ridership and surveyed weekday travel behavior. This system-wide ratio shall be continued, with the exception the sbX Corridor (Route 2 and sbX). Both weekday Route 2 and sbX service shall be surveyed with a 25% sample size of average weekday ridership in order to further reduce the margin of error on the key service area. The 10% ridership sampling methodology shall be utilized on Access. The survey of the businesses shall be designed to capture the prevailing opinions of business owners along the corridor with a maximum sampling error of +/- 5% at a 95% confidence level.

3. STATEMENT OF WORK

This is a general outline. Consultant shall submit a project plan/schedule.

A. Task 1: Finalize Work Program

- 1) Kick Off Meeting:
 - a) Review Project Objectives
 - b) Review Preliminary work program
 - c) Address technical issues
 - d) Establish channels of communication which shall include at least one project status conference call per week.
- 2) Review previous survey materials such as those listed below, and Omnitrans Service.
 - a) 2007 Survey & Results
 - b) 2011 Onboard Access and Omnilink Rider Survey
 - c) 2007-8 Omnitrans Attitude and Awareness Survey
- 3) Develop/Refine Survey Instruments
 - a) Refine minor changes to Rider Intercept Survey, include Access, and surveying in Spanish.
 - b) Develop Survey Instrument for Businesses. (Anticipated to be 15-20 questions.)
- 4) Discuss Surveying Methodology
- 5) Finalize reporting format

- 6) Finalize Project Schedule

B. Task 2: Finalize Sampling Design and Development of Onboard and Phone Survey

- 1) Field Sampling Plan for Intercept
- 2) Sampling Plan for Access
- 3) Sampling Plan for Business
- 4) Finalize Survey Instruments
- 5) Pre-Test Surveys
- 6) Pre-Test Survey Report

C. Task 3: Conduct Intercept Surveys

- 1) Print Surveys (Ability to conduct Survey in English and Spanish)
- 2) Recruit and Train Onboard Surveyors
- 3) Conduct Rider Survey (Survey to be scheduled to avoid holidays and weeks immediately surrounding holidays)
 - a) Deliver Weekly Progress Updates
 - b) Logs of Assignments and Incidents
 - c) Summary of Refusal Rates
 - d) Completed Surveys
- 4) Quality Assurance

D. Task 4: Conduct Phone Survey for Access and Businesses

- 1) Train surveyors
- 2) Conduct Phone Surveys
 - a) Deliver Weekly Progress Updates
 - b) Completion Rate
 - c) Complete Surveys
- 3) Quality Assurance Plan

E. Task 5: Geocode Address Data

- 1) Edit and Logically Order Survey Address Data for All trips
- 2) Geocode all survey address data
- 3) Provide finalized data files (in Excel and in shapefile format with two pieces, linked information and unlinked info)
- 4) Analyze significant difference in Geocode data from 2011 to 2016 data

F. Task 6: Code, Analyze and Weight Non-Address Survey Data

Provide final data files in Statistical Package for the Social Sciences (SPSS) relevant exports (Excel).

G. Task 7: Analysis and Reporting

- 1) Weight Results
- 2) Cross-Tabs
- 3) Written Report (Final report will focus on both the results of the current study with detailed comparison to the 2011 Before Survey)
 - a) Draft
 - b) Final (Prior to March 30, 2017)
- 4) Presentation (up to 3) to Omnitrans Board, Plans and Programs Committee and Staff to take place in the months of March, April and May. One of the meetings will be either April 5, 2017 or May 3, 2017.

H. Task 8: Focus Groups

- 1) Consultant shall work with the OMNITRANS project team to plan and facilitate a series of focus groups which will seek to obtain information to support the goals outlined in the Project Focus.
- 2) Consultant shall conduct a total of six focus groups:
 - a) Four for riders;
 - b) Two for businesses
- 3) Consultant shall:
 - a) Provide a site location;
 - b) Outline a strategy for participant selection;
- 4) Provide an experienced professional moderator; and
- 5) Prepare written transcripts and 2 copies of video capture (DVD)
- 6) Provide a written report summarizing Focus Group findings.

End Scope of Work

ATTACHMENT B – PRICING
MKP17-18
Passenger & sbX Corridor Business Surveys

Description	Amount
Task 1 - Work Program	\$8,618
Task 2 - Design/Develop Onboard and Phone Surveys	\$17,447
Task 3 - Intercept Surveys	\$91,396
Task 4 - Phone Survey Access & Businesses	\$14,238
Task 5 - Geocode Address Data	\$40,188
Task 6 - Non-Address Survey Data	\$21,800
Task 7 - Analysis and Reporting	\$19,854
Task 8 - Focus Groups	\$40,925
Option: Increase sample size to 200	\$400

Total **\$254,866**

ITEM # F5

DATE: December 7, 2016

TO: Board Chair Sam Spagnolo and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Jennifer M. Sims, Director of Procurement

SUBJECT: AUTHORIZE AWARD – CONTRACT MNT17-04, HVAC AND ENERGY MANAGEMENT SYSTEM (EMS) MAINTENANCE SERVICES

FORM MOTION

Authorize the CEO/General Manager to award Contract MNT17-04 to ABM Building Solutions, LLC, of Irvine, CA, for the provision of Heating, Ventilation and Air Conditioning (HVAC) and Energy Management Systems (EMS) Maintenance Services for a three (3) year base period, with the authority to exercise two (2) single option years, ending no later than December 2021, in the amount of \$681,620, plus a five percent contingency of \$34,081, for a total not-to-exceed amount of \$715,701 should all options be exercised.

BACKGROUND

Omnitrans utilizes the services of a Contractor for the maintenance and repair of its HVAC and EMS systems at the West Valley, East Valley, “I” Street, and Rancho Cucamonga facilities. The scope of this solicitation adds service to the San Bernardino Transit Center and the sbX E-Street Corridor.

On September 30, 2016, Omnitrans’ Board of Directors authorized the release of Invitation for Bids IFB-MNT17-04 for HVAC and EMS maintenance services. Notices were published in two (2) local newspapers of general circulation, two (2) minority papers, and posted on Omnitrans’ online bidding system. Two bids were received by the November 2, 2016, deadline and both bids were found to be responsive.

Bids are listed below from highest to lowest:

	ABM Building Solutions, LLC	Ontario Refrigeration Service, Inc.
Base Years	\$361,992	\$458,868
Option Years	\$257,628	\$328,652
Total	\$619,620	\$788,520

Award is recommended to the lowest responsive and responsible bidder, ABM Building Solutions, LLC, in the amount \$619,620, plus \$62,000 for parts and repairs for a total amount not to exceed \$681,620. The lowest bid is within three percent of the Independent Cost Estimate of \$701,154 and is deemed fair and reasonable.

This procurement meets the requirements of Omnitrans' Procurement Policies and Procedures.

FUNDING SOURCES

The cost associated with this procurement is budgeted in the Maintenance Department's Operating budget as follows:

Department	1200
Expenditure Code	505060

_____ Verification of Funding Sources and Availability of Funds.
(Verified and initialed by Finance)

Short Range Transit Plan/Strategic Initiative Supported – N/A

CONCLUSION

By approving award of this contract, Omnitrans will have the ability to continue to provide heating and air conditioning at its facilities.

PSG:JMS:CVM



CONTRACT AGREEMENT

between

CONTRACTOR
ABM Building Solutions, LLC
152 Technology
Irvine, CA 92618

(hereinafter "CONTRACTOR")
Telephone: 949-330-1550
Email: brandon.stateler@abm.com

And

Omnitrans
1700 West Fifth Street
San Bernardino, CA 92411
(hereinafter "OMNITRANS")

CONTRACT DOCUMENTS

CONTRACT NO. MNT17-04

HVAC & ENERGY MANAGEMENT SYSTEM (EMS) MAINTENANCE SERVICES

Contract Amount: \$398,192

Omnitrans Project Manager:

Name: Mark Montgomery
Title: Facilities Manager
Telephone: (909) 379-7175
Email:
mark.montgomery@omnitrans.org

Contract Administrator:

Name: Christine Van Matre
Title: Contract Administrator
Telephone: (909) 379-7122
Email:
christine.vanmatre@omnitrans.org



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ATTACHMENT A – SCOPE OF WORK

ATTACHMENT B – REGULATORY REQUIREMENTS

ATTACHMENT C - PRICING

ATTACHMENT D – PREVAILING WAGES

This Agreement is made and entered into as of this ____ day of _____, and between Omnitrans (hereinafter referred to as "OMNITRANS") and ABM Building Solutions, LLC (hereinafter referred to as "CONTRACTOR").

RECITALS

WHEREAS, OMNITRANS is a joint powers authority organized under Sections 6500 et seq. of the California Government Code with power to contract for services described in Attachment A to this Agreement entitled "Attachment A, Scope of Work" (hereinafter referred to as "Work");

WHEREAS, CONTRACTOR has indicated it is qualified to perform such services and (1) has reviewed all the available data furnished by OMNITRANS pertinent to the Work to be rendered; (2) has inspected and reviewed the Work to be rendered; (3) will exercise the ordinary care and skill expected of a practitioner in its profession; and (4) is willing to accept responsibility of performing the Work set forth in this Agreement for the compensation and in accordance with the terms, requirements and conditions herein specified;

NOW, THEREFORE, for the consideration hereinafter stated, the parties agree as follows:

1. SCOPE OF WORK

- A. CONTRACTOR will perform the Work and related tasks as described in Attachment A, Scope of Work hereto and is incorporated by reference into and made a part of this Agreement.
- B. This is a non-exclusive Agreement, whereby OMNITRANS may, at its sole discretion, augment or supplant the Work with its own forces or forces of another contractor or entity. CONTRACTOR will cooperate fully with OMNITRANS' staff or other contractor or entity that may be providing similar or the same Work for OMNITRANS.

2. PERIOD OF PERFORMANCE

The term of this Agreement shall be from the date of execution of this Agreement and continue in effect through _____, unless terminated as specified in Section 10 and 11 of this Agreement. Omnitrans has no obligation to purchase any specified amount of products/services. All applicable indemnification provisions in this Agreement shall remain in effect following the termination of this Agreement.

Omnitrans' election to extend the Agreement beyond the Initial Term shall not diminish its right to terminate the Agreement for Omnitrans' convenience or CONTRACTORS default as provided elsewhere in this Agreement. The "maximum term" of this Agreement shall be the period extended from through _____, which period encompasses the Initial Term and the Option Year One and Option Year Two.

3. CONTRACT OPTIONS

- A. Omnitrans will have the unilateral right in the contract by which, for a specified time, Omnitrans may elect to purchase additional services called for by the contract, or may elect to extend the term of the contract. The requirements below apply:
 - 1) Any options that were requested by Omnitrans and/or contained in the Contractor's PROPOSAL or offer must have been evaluated in making the contract award prior to exercising any such options.
 - 2) Since Contractor's proposed pricing for the option years and additional services are considered in evaluating the Contractor's original proposal and form the basis for awarding the contract, Contractor shall be bound by the proposal pricing for additional services and/or option years, unless otherwise provided herein.
- B. Omnitrans will provide a minimum of thirty days (30) written notice to the Contractor of Omnitrans' exercise of its option to extend the contract years. Omnitrans may give notice of its exercise of the option for additional services at any time during the term of the contract. The minimum time for the written notice may be waived by mutual agreement.

4. COMPENSATION

For CONTRACTOR's full and complete performance of its obligations under this Agreement, OMNITRANS shall pay CONTRACTOR on a FIXED PRICE basis at the fully burdened fixed rates shown in Attachment C, and subject to the maximum cumulative payment obligation.

OMNITRANS' maximum cumulative payment obligation under this Agreement shall not exceed Three Hundred Ninety-Eight Thousand One Hundred Ninety-Two Dollars (\$398,192), including all amounts payable to CONTRACTOR for all costs, including but not limited to direct labor, other direct costs, subcontracts, indirect costs including, but not limited to, leases, materials, taxes, insurance, and profit.

5. INVOICING AND PAYMENT

- A. CONTRACTOR shall invoice OMNITRANS on a monthly basis no later than the 15th of each month. CONTRACTOR shall furnish information as
- B. may be requested by OMNITRANS to substantiate the validity of an invoice.

CONTRACTOR shall submit invoices in duplicate to:

OMNITRANS
1700 West Fifth Street
San Bernardino, CA 92411
Attn: Accounts Payable

Accountspayable@omnitrans.org

A separate invoice shall be used for each shipment. Each invoice shall include, at minimum, the following information:

- Contract number
 - Invoice number
 - Description of delivery
 - Delivery Date
 - Total quantity delivered
 - Information as requested by OMNITRANS
- C. OMNITRANS shall remit payment within thirty (30) calendar days of approval of the invoices by OMNITRANS' Project Manager.

In the event OMNITRANS should overpay CONTRACTOR, such overpayment shall not be construed as a waiver of OMNITRANS' right to obtain reimbursement for the overpayment. Upon discovering any overpayment, either on its own or upon notice of OMNITRANS, CONTRACTOR shall immediately reimburse OMNITRANS the entire overpayment or, at its sole discretion, OMNITRANS may deduct such overpayment amount from monies due to CONTRACTOR under this Agreement or any other Agreement between OMNITRANS and CONTRACTOR.

D. TITLE

- a. Title shall pass to Omnitrans at the time of payment.
- b. The title transferred as above shall in each case be good, and free and clear from any and all security interests, liens, and/or other encumbrances.
- c. The transfer of title as specified above shall not imply Acceptance by Omnitrans, nor relieve the Contractor from the responsibility for strict compliance with the Contract, including warranty as specified in the Article entitled Warranty of Work, and for any loss of or damage to the Work.
- d. The Contractor at its own expense shall promptly execute, acknowledge, and deliver to the Omnitrans proper bills of sale or other written instruments of title in a form as required by Omnitrans; said instruments shall convey to the Omnitrans' title free and clear of debts, claims, liens, mortgages, taxes, and/or encumbrances.
- e. Contractor shall have title to and bear the risk of any loss of or damage to Work purchased hereunder until they are delivered, unloaded, and received by Omnitrans at the FOB Destination specified herein. Contractor's responsibility for loss or damage except for loss or damage resulting from Contractor's negligence, shall cease when title passes to Omnitrans.

6. AUDIT AND INSPECTION OF RECORDS

CONTRACTOR agrees that OMNITRANS or any duly authorized representative shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, time cards, employment records or other records relating to this Agreement. Such material, including all pertinent cost, accounting, financial records, and proprietary data must be kept and maintained by CONTRACTOR for a period of three (3) years after completion of this Agreement unless OMNITRANS' written permission is given to CONTRACTOR to dispose of material prior to this time.

7. NOTIFICATION

All notices hereunder concerning this Agreement and the Work to be performed shall be physically transmitted by courier, overnight, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

To OMNITRANS:

Omnitrans
1700 West Fifth Street
San Bernardino, CA 92411
Attn: Christine Van Matre
Contract Administrator

To CONTRACTOR:

ABM Building Solutions, LLC
152 Technology
Irvine, CA 92618
Attn: Robert Bayer
Vice President

8. OMNITRANS' AND CONTRACTOR'S REPRESENTATIVES

A. OMNITRANS' Project Manager

Contracting Officer: OMNITRANS' CEO/General Manager or his authorized designee who has authority to execute contracts on behalf of OMNITRANS.

Project Manager: Mark Montgomery, Facilities Manager.

- a. Except as expressly specified in this Agreement, the Contracting Officer may exercise any powers, rights and/or privileges that have been lawfully delegated by OMNITRANS. Nothing in this Agreement should be construed to bind OMNITRANS for acts of its officers, employees, and/or agents that exceed the delegation of authority specified herein.
- b. The Contracting Officer has delegated to the Project Manager certain powers and duties in connection with this Agreement. The Project Manager is the authorized representative of the Contracting Officer for matters related to this Agreement. The Project Manager or his/her designee is empowered to:
 1. Have general oversight of the Work and this Agreement, including the power to enforce compliance with this Agreement.
 2. Reserve the right to remove any portion of the Work from CONTRACTOR which have not been performed to OMNITRANS' satisfaction.
 3. Subject to the review and acceptance by OMNITRANS, negotiate with CONTRACTOR all adjustments pertaining to this Agreement for revision.
- c. In addition to the foregoing, the Project Manager shall have those rights and powers expressly set forth in other sections of this Agreement.

B. Contractor's Key Personnel

The following are CONTRACTOR's key personnel and their associated roles in the Work to be provided:

<u>Name</u>	<u>Role</u>
Robert Bayer	Vice President
Brandon Stateler	Service Manager
Theresa Shanley	Dispatcher
James Kish	Sales Executive

Any propose/substitution or replacement by Contractor of Contractor's key personnel shall ensure that such person possesses the same or better expertise and experience than the key personnel being substituted or replaced. Omnitrans reserves the right to interview such person to ascertain and verify if such proposed substitution or replacement does in deed possess such expertise and experience.

OMNITRANS awarded this Agreement to CONTRACTOR based on OMNITRANS' confidence and reliance on the expertise of CONTRACTOR's key personnel described above. CONTRACTOR shall not reassign key personnel or assign other personnel to key personnel roles until CONTRACTOR obtains prior written approval from OMNITRANS.

9. DISPUTE RESOLUTION

Any disputes between the successful CONTRACTOR and OMNITRANS relating to the implementation or administration of the Contract shall be resolved in accordance with this section.

- A. The parties shall first attempt to resolve the dispute informally in meetings or communications between proposer and OMNITRANS.
- B. If the dispute remains unresolved fifteen (15) days after it first arises, proposer may request that Omnitrans' CEO/General Manager issue a recommended decision on the matter in dispute. Omnitrans' CEO/General Manager shall issue the recommended decision in writing and provide a copy to proposer.
- C. If the dispute remains unresolved after review by Omnitrans' CEO/General Manager, either party may seek judicial resolution of the dispute in an appropriate Court of the State of California.
- D. Pending final resolution of a dispute under this section, proposer shall proceed diligently with performance in accordance with the Contract and Omnitrans' CEO/General Manager's recommended decision.

10. TERMINATION FOR CONVENIENCE

OMNITRANS may terminate this Agreement in whole or in part for OMNITRANS' convenience. Omnitrans' CEO/General Manager shall terminate this Agreement by a written Notice of Termination to CONTRACTOR specifying the nature, extent, and effective date of the termination. Upon receipt of the notice of termination, CONTRACTOR shall immediately discontinue all Work affected and deliver all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Agreement, whether completed or in process, to Omnitrans' CEO/General Manager. OMNITRANS shall make an equitable adjustment in the Agreement for Work already performed, but shall not allow anticipated profit on unperformed services. Force Majeure shall apply.

11. TERMINATION FOR BREACH OF AGREEMENT

- A. If CONTRACTOR fails to perform any of the provisions of this Agreement or so fails to make progress as to endanger timely performance of this Agreement, OMNITRANS may give CONTRACTOR written notice of such default. If CONTRACTOR does not cure such default or provide a plan to cure such default which is acceptable to OMNITRANS within the time permitted by OMNITRANS, then OMNITRANS may terminate this Agreement due to CONTRACTOR's breach of this Agreement.
- B. If a federal or state proceeding for relief of debtors is undertaken by or against CONTRACTOR, or if CONTRACTOR makes an assignment for the benefit of creditors, then OMNITRANS may immediately terminate this Agreement.
- C. If CONTRACTOR violates Section 28, Compliance with Lobbying Policies, of this Agreement, then OMNITRANS may immediately terminate this Agreement.
- D. In the event OMNITRANS terminates this Agreement as provided in this Section, OMNITRANS may procure, upon such terms and in such manner as OMNITRANS may deem appropriate, Work similar in scope and level of effort to those so terminated, and CONTRACTOR shall be liable to OMNITRANS for all of its costs and damages, including, but not limited, any excess costs for such Work.
- E. All finished or unfinished documents and materials produced or procured under this Agreement shall become OMNITRANS' property upon date of such termination.
- F. If, after notice of termination of this Agreement under the provisions of this Section, it is determined for any reason that CONTRACTOR was not in default under the provisions of this Section, or that the default was excusable under the terms of this Agreement, the rights and obligations of

the parties shall be the same as if the notice of termination had been issued pursuant to Section 10, Termination for Convenience.

- G. The rights and remedies of OMNITRANS provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

12. LIQUIDATED DAMAGES

- A. Maintenance of the HVAC system is critical to the comfort of staff and is vital for the operation of certain equipment. Any delay by the Contractor in responding to calls and making repairs represents a potential loss of system benefits and may constitute real and measureable damages in loss of productivity and possible equipment damage. Thus, it is important that Contractor must maintain full capability to maintain Omnitrans' HVAC equipment on schedule as called for under this Contract, and to immediately respond to requests for emergency repairs.
- B. Once the Contractor has been notified of a problem by Omnitrans in an agreed-upon fashion, or when the Contractor has identified a problem during an on-site visit and notified the designated Omnitrans representative, the Contractor shall initiate repairs immediately or face liquidated damages.
- C. For each calendar day that any repair shall remain incomplete past the agreed on-time period (under normal seasonal conditions), the amount of \$100.00 shall be deducted from any money due the Contractor, not as a penalty, but as liquidated damages. Said amount shall apply separately to each specified equipment item requiring repair. The damages shall be cumulative.
- D. Timeliness of Repairs: In the event that the Contractor fails to respond to the emergency call within the 4-hour time frame stated in the contract or fails to make the repairs in the agreed on-time period (under normal seasonal conditions), Omnitrans, at its sole discretion, will decide if it is necessary to utilize the services of another vendor. All costs incurred by Omnitrans, as determined by Omnitrans, for such repairs shall be repaid by the Contractor by cash payment upon demand or Omnitrans may deduct such costs from any amounts due to the Contractor from Omnitrans.

13. ASSIGNMENT

This Agreement, any interest herein or claim hereunder, may not be assigned by CONTRACTOR either voluntarily or by operation of law, nor may all or any part of this Agreement be subcontracted by CONTRACTOR, without the prior written consent of OMNITRANS. Consent by OMNITRANS shall not be deemed to

relieve CONTRACTOR of its obligations to comply fully with all terms and conditions of this Agreement.

14. SUBCONTRACTING

OMNITRANS hereby consents to CONTRACTOR's subcontracting of portions of the Work to the parties identified below for the functions described in CONTRACTOR's proposal. CONTRACTOR shall include in each subcontract agreement the stipulation that CONTRACTOR, not OMNITRANS, is solely responsible for payment to the subcontractor for all amounts owing and that the subcontractor shall have no claim, and shall take no action against OMNITRANS, Member Agencies or officers, directors, employees or sureties thereof for nonpayment by CONTRACTOR.

Subcontractor's Name and Address	Work to Be Performed
RL Monitoring & Controls 4807 Radnor Ave. Lakewood, CA	Controls Maintenance & Repair

15. INDEPENDENT CONTRACTOR

CONTRACTOR's relationship to OMNITRANS in the performance of this Agreement is that of an independent Contractor. CONTRACTOR's personnel performing Work under this Agreement shall at all times be under CONTRACTOR's exclusive direction and control and shall be employees of CONTRACTOR and not employees of OMNITRANS. CONTRACTOR shall pay all wages, salaries and other amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.

16. INSURANCE

A. INSURANCE REQUIREMENTS

1) General Requirements for Contractor

- a. Without limiting or diminishing the Contractor's obligation to indemnify or hold Omnitrans harmless, Contractor shall procure, prior to commencement of the services required under this contract and maintain for the duration of the contract at its own expense, insurance of the kinds and in the amounts as indicated below;
- b. Provide Omnitrans with valid original certificates of insurance and endorsements showing Omnitrans as an additional insured.

2) **Deductibles or Self-Insured Retention (SIR)**

SIR must be declared to and approved by Omnitrans. At the option of Omnitrans, either: the insurer shall reduce or eliminate such deductibles or SIR or Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

3) **Other Insurance Provisions**

a. Commercial General Liability and Automobile Liability

Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed operations liability, personal and advertising injury covering claims which may arise from or out of Contractor's performance of its obligations hereunder and if Contractor's vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then Contractor shall maintain liability insurance for all owned, non-owned or hired vehicles so used. Policy shall name Omnitrans, its officers, officials, employees, agents and volunteers as additional insured as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations of the scope of protection afforded Omnitrans, its officers, officials, employees, agents, and volunteers.

1. For any claims related to this project, Contractor's insurance coverage shall be primary insurance as respects Omnitrans, its officers, officials, employees, agents, and volunteers. Any insurance and/or deductibles and/or self-insured retentions or self-insured programs maintained by Omnitrans, its officers, officials, employees, agents, and volunteers shall be excess of Contractor's insurance and shall not be construed as contributory.
2. Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to Omnitrans.

b. Workers' Compensation

If the Contractor has employees as defined by the State of California, the Contractor shall maintain statutory Workers' compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of Omnitrans and, if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement.

c. Care, Custody, and Control

Contractor shall insure any Omnitrans property while under its Care, Custody, and Control according to the requirements listed in the insurance coverage required.

4) Acceptability of Insurers

Insurance companies shall be State of California admitted or approved and have a current **A.M. Best's** rating of no less than **A:VIII**.

5) Verification of Coverage

- a. Contractor shall furnish Omnitrans with original endorsements affecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All insurance certificates and endorsements are to be received and approved by Omnitrans before work commences.
- b. As an alternative, Contractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.
- c. In lieu of purchasing insurance and providing original endorsements and or certificates of insurance, the Contractor may provide proof of self-insurance; such proof must be to the satisfaction of Omnitrans.

6) Subcontractors

Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

7) Notification of Terminated Insurance

Insurance shall not be terminated or expire without thirty (30) days written notice, and are required to be maintained in force until completion of the contract.

B. MINIMUM INSURANCE COVERAGE

If the Contractor maintains broader coverage and/or higher limits than the minimum requirements shown below, Omnitrans requires and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor.

- 1) ☒ **Commercial General Liability including Products/Completed Operations:** \$1,000,000; per occurrence for bodily and property damage liability and \$2,000,000 aggregate; *Omnitrans named and endorsed as an Additional Insured.*
- 2) ☒ **Automobile Liability:** \$1,000,000; per occurrence for bodily and property damage liability and aggregate; *Omnitrans named and endorsed as an Additional Insured.*
- 3) ☐ **Errors and Omissions Liability:** \$1,000,000; combined single limit bodily and property damage liability per occurrence and \$3,000,000 aggregate or,
- 4) ☐ **Professional Liability:** \$1,000,000; per occurrence and aggregate.
- 5) ☒ **Workers' Compensation:** statutory limits or,
- 6) ☐ **Self Insurance Program:** a State Approved program in an amount and form that meets all applicable requirements of the Labor Code of the State of California.
- 7) ☒ **Employer's Liability:** \$1,000,000; per occurrence.
- 8) ☐ **Environmental Liability:** \$1,000,000; per occurrence and aggregate; *Omnitrans named and endorsed as an Additional Insured.*
- 9) ☐ **Umbrella Policy:** \$4,000,000; per occurrence and aggregate Additional coverage for the above policies, *Omnitrans Additional Insured.*
- 10) ☐ All drivers making deliveries of products specified on this solicitation shall have Hazardous Materials Endorsements on their Commercial Drivers License, and such other Endorsements as may be required by relevant laws and/or regulations.

17. INDEMNITY

CONTRACTOR shall indemnify, defend and hold harmless OMNITRANS, and its member agencies, and their officers, directors, employees and agents from and against any and all liability, expense (including, but not limited to, defense costs and attorneys' fees), claims, causes of action, and lawsuits for damages of any nature whatsoever, including, but not limited to, bodily injury, death, personal injury or property damage (including property of CONTRACTOR) arising from or

connected with any alleged act and/or omission of CONTRACTOR, its officers, directors, employees, agents, Subcontractors or suppliers. This indemnity shall survive termination or expiration of this Agreement and/or final payment thereunder.

18. REVISIONS IN SCOPE OF WORK

By written notice or order, OMNITRANS may, from time to time, order work suspension or make changes to this Agreement. Changes in the Work shall be mutually agreed to and incorporated into an amendment to this Agreement. Upon execution of an amendment, CONTRACTOR shall perform the Work, as amended.

19. RIGHTS IN TECHNICAL DATA

- A. No material or technical data prepared by CONTRACTOR under this Agreement is to be released by CONTRACTOR to any other person or entity except as necessary for the performance of the Work. All press releases or information concerning the Work that might appear in any publication or dissemination, including but not limited to, newspapers, magazines, and electronic media, shall first be authorized in writing by OMNITRANS.
- B. The originals of all letters, documents, reports and other products and data produced under this Agreement shall become the property of OMNITRANS without restriction or limitation on their use and shall be made available upon request to OMNITRANS at any time. Original copies of such shall be delivered to OMNITRANS upon completion of the Work or termination of the Work. CONTRACTOR shall be permitted to retain copies of such items for the furtherance of its technical proficiency; however, publication of this material is subject to the prior written approval of OMNITRANS. The provisions of this paragraph shall survive termination or expiration of this Agreement and/or final payment thereunder.

20. OWNERSHIP OF REPORTS AND DOCUMENTS

The originals of all letters, documents, reports and other products and data produced under this Agreement shall be delivered to, and become the sole and exclusive property of OMNITRANS. Copies may be made for CONTRACTOR's records, but shall not be furnished to others without prior written authorization from OMNITRANS. Such deliverables shall be deemed works made for hire, and all rights in copyright therein shall be retained by OMNITRANS.

21. OWNERSHIP RIGHTS

- A. In the event OMNITRANS rightfully obtains copies of Proprietary Data under the terms of the separate License Agreement and Escrow

Agreement that govern rights in Documentation, Software and Intellectual Property created and/or developed by Contractor, its Third Party Software Contractors and its Suppliers as part of the Project, any derivative works and associated documentation created by or on behalf of OMNITRANS by Permitted Programmers (as defined in the License Agreement) shall be the sole and exclusive property of OMNITRANS (collectively, "OMNITRANS Intellectual Property"), and OMNITRANS may use, disclose and exercise dominion and full rights of ownership, in any manner in OMNITRANS Intellectual Property in connection with the use, operation and maintenance of a transportation system administered by OMNITRANS. No use of OMNITRANS Intellectual Property shall be made for any purpose other than in conjunction with a transportation system administered by CONTRACTOR, and OMNITRANS shall not sell, lease, rent, give away or otherwise disclose any OMNITRANS Intellectual Property to any outside third party other than Permitted Programmers. To the extent there may be any question of rights of ownership or use in any OMNITRANS Intellectual Property, Contractor shall require all of its subcontractors and suppliers (including without limitation its Third Party Software Contractors) to assign to OMNITRANS, all worldwide right, title and interest in and to all OMNITRANS Intellectual Property in a manner consistent with the foregoing terms of this paragraph. Contractor shall execute any documents as OMNITRANS may from time to time reasonably request to effectuate the terms of this paragraph.

- B. All documentation and Software which predates this Contract and which otherwise owned by Contractor or its Third Party Software Contractors, and all Documentation and Software which is created by Contractor or its Third Party Software Contractors shall be Licensed Software or Licensed Documentation, as appropriate. All Licensed Software and Licensed Documentation shall be governed by the License Agreement by and between the parties of event date herewith.

22. WORK FOR HIRE

Any work created or produced as a part of this Agreement that may be defined under Section 101, Title 17, USC will be considered "work for hire" as it pertains to ownership rights. CONTRACTOR, by his/her endorsement hereon agrees that all rights to any work(s) created or produced are waived, and that ownership rests with OMNITRANS. CONTRACTOR further agrees to ensure transfer of all rights to such work(s), as defined under federal copyright law, that may be created or produced under this Agreement by its suppliers, contractors or subcontractors.

23. SUBMITTAL OF CLAIMS BY CONTRACTOR

CONTRACTOR shall file any and all claims with OMNITRANS' Project Manager in writing within thirty (30) days of the event or occurrence giving rise to the

claim. The claim shall be in sufficient detail to enable OMNITRANS to ascertain the claim's basis and amount, and shall describe the date, place and other pertinent circumstances of the event or occurrence giving rise to the claim and the indebtedness, obligation, injury, loss or damages allegedly incurred by CONTRACTOR.

Even though a claim may be filed and/or in review by OMNITRANS, CONTRACTOR shall continue to perform in accordance with this Agreement.

24. EQUAL OPPORTUNITY

CONTRACTOR shall not discriminate against, or grant preferential treatment to, any individual or group, or any employee or applicant for employment because of race, age, religion, color, ethnicity, sex, national origin, ancestry, physical disability, mental disability, political affiliation, sexual orientation, marital status or other status protected by law. CONTRACTOR shall take action to ensure that applicants and employees are treated without regard to the above.

25. STANDARD OF PERFORMANCE

- A. CONTRACTOR shall perform and exercise, and require its subcontractors to perform and exercise due professional care and competence in the performance of the Work in accordance with the requirements of this Agreement. CONTRACTOR shall be responsible for the professional quality, technical accuracy, completeness and coordination of the Work, it being understood that OMNITRANS will be relying upon such professional quality, accuracy, completeness and coordination in utilizing the Work. The foregoing obligations and standards shall constitute the "Standard of Performance" for purposes of this Agreement. The provisions of this paragraph shall survive termination or expiration of this Agreement and/or final payment thereunder.
- B. All workers shall have sufficient skill and experience to perform the Work assigned to them. OMNITRANS shall have the right, at its sole discretion, to require the immediate removal of CONTRACTOR's personnel at any level assigned to the performance of the Work at no additional fee or cost to OMNITRANS, if OMNITRANS considers such removal in its best interests and requests such removal in writing and such request is not done for illegal reasons. Further, an employee who is removed from performing Work under this Agreement under this Article shall not be re-assigned to perform Work in any other capacity under this Agreement without OMNITRANS' prior written approval.

26. NOTIFICATION OF EMPLOYMENT OF OMNITRANS BOARD MEMBERS/ALTERNATES AND EMPLOYEES

To ensure compliance with OMNITRANS' Ethics Policy, CONTRACTOR shall provide written notice to OMNITRANS disclosing the identity of any individual

who CONTRACTOR desires to employ or retain under a contract, and who (1) presently serves as a Board Member/Alternate or an employee of OMNITRANS, or (2) served as a Board Member/Alternate or an employee of OMNITRANS within the previous 12 months of the date of the proposed employment or retention by CONTRACTOR. CONTRACTOR's written notice shall indicate whether the individual will be an officer, principal or shareholder of the entity and/or will participate in the performance of this Agreement.

27. DISQUALIFYING POLITICAL CONTRIBUTIONS

In the event of a proposed amendment to this Agreement, CONTRACTOR shall provide prior to the execution of such amendment, a written statement disclosing any contribution(s) of \$250 or more made by CONTRACTOR or its subcontractor(s) to Omnitrans Board Members/Alternates or employees within the preceding twelve (12) months of the date of the proposed amendment. Applicable contributions include those made by any agent/person/entity on behalf of CONTRACTOR or subcontractor(s).

28. COMPLIANCE WITH LAW

- A. CONTRACTOR shall familiarize itself with and perform the Work required under this Agreement in conformity with requirements and standards of OMNITRANS, municipal and public agencies, public and private utilities, special districts, and railroad agencies whose facilities and work may be affected by Work under this Agreement. CONTRACTOR shall also comply with all Federal, state and local laws and ordinances.
- B. Government regulations that directly affect the CONTRACTOR'S performance of this contract and unforeseen impacts, which neither party could have contemplated at the onset of the contract and have an unconscionable impact on the CONTRACTOR may be given special pricing consideration. The parties, in good faith, shall review established rates and may adopt any mutually agreed new rates, which shall only be effective as agreed upon by the parties. Thorough documentation including all cost elements is required to support the Contractor's claim to any relief under this clause.

29. COMPLIANCE WITH LOBBYING POLICIES

- A. CONTRACTOR agrees that if it is a Lobbyist Employer or if it has retained a Lobbying Firm or Lobbyist, as such terms are defined by OMNITRANS in its Ethics Policy, it shall comply or ensure that its Lobbying Firm and Lobbyist complies with OMNITRANS' Ethics Policy.
- B. If CONTRACTOR (Lobbyist Employer) or its Lobbying Firm or Lobbyist fails to comply, in whole or in part, with OMNITRANS' Ethics Policy, such failure shall be considered a material breach of this Agreement and

OMNITRANS shall have the right to immediately terminate or suspend this Agreement.

30. PUBLIC RECORDS ACT

- A. All records, documents, drawings, plans, specifications and other material relating to conduct of OMNITRANS' business, including materials submitted by CONTRACTOR in its proposal and during the course of performing the Work under this Agreement, shall become the exclusive property of OMNITRANS and may be deemed public records. Said materials may be subject to the provisions of the California Public Records Act. OMNITRANS' use and disclosure of its records are governed by this Act.
- B. OMNITRANS will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act, including interpretations of the Act or the definitions of trade secret, confidential or proprietary. OMNITRANS will accept materials clearly and prominently labeled "TRADE SECRET" or "CONFIDENTIAL" or "PROPRIETARY" as determined by CONTRACTOR. OMNITRANS will endeavor to notify CONTRACTOR of any request of the disclosure of such materials. Under no circumstances, however, will OMNITRANS be liable or responsible for the disclosure of any labeled materials whether the disclosure is required by law or a court order or occurs through inadvertence, mistake or negligence on the part of OMNITRANS or its officers, employees and/or contractors.
- C. In the event of litigation concerning the disclosure of any material submitted by CONTRACTOR, OMNITRANS' sole involvement will be as a stake holder, retaining the material until otherwise ordered by a court. CONTRACTOR, at its sole expense and risk, shall be responsible for prosecuting or defending any action concerning the materials, and shall defend, indemnify and hold OMNITRANS harmless from all costs and expenses, including attorneys' fees, in connection with such action.

31. WAIVER/INVALIDITY

No waiver of a breach of any provision of this Agreement by either party shall constitute a waiver of any other breach of the provision, or of any other breach of the provision of the Agreement. Failure of either party to enforce any provision of this Agreement at any time shall not be construed as a waiver of that provision.

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

32. FORCE MAJEURE

Performance of each and all CONTRACTOR's and OMNITRANS' covenants herein shall be subject to such delays as may occur without CONTRACTOR's or OMNITRANS' fault from acts of God, strikes, riots, or from other similar causes beyond CONTRACTOR's or OMNITRANS' control.

33. CONFIDENTIALITY

CONTRACTOR agrees that for and during the entire term of this Agreement, any information, data, figures, records, findings and the like received or generated by CONTRACTOR in the performance of this Agreement, shall be considered and kept as the private and privileged records of OMNITRANS and will not be divulged to any person, firm, corporation, or other entity except on the direct prior written authorization of OMNITRANS. Further, upon expiration or termination of this Agreement for any reason, CONTRACTOR agrees that it will continue to treat as private and privileged any information, data, figures, records, findings and the like, and will not release any such information to any person, firm, corporation or other entity, either by statement, deposition, or as a witness, except upon direct prior written authority of OMNITRANS.

34. CONTRACTOR'S INTERACTION WITH THE MEDIA AND THE PUBLIC

- A. OMNITRANS shall review and approve in writing all OMNITRANS related copy proposed to be used by CONTRACTOR for advertising or public relations purposes prior to publication. CONTRACTOR shall not allow OMNITRANS related copy to be published in its advertisements and public relations programs prior to receiving such approval. CONTRACTOR shall ensure that all published information is factual and that it does not in any way imply that OMNITRANS endorses CONTRACTOR's firm, service, and/or product.
- B. CONTRACTOR shall refer all inquiries from the news media to OMNITRANS, and shall comply with the procedures of OMNITRANS' Public Affairs staff regarding statements to the media relating to this Agreement or the Work.
- C. If CONTRACTOR receives a complaint from a citizen or the community, CONTRACTOR shall inform OMNITRANS as soon as possible and inform OMNITRANS of any action taken to alleviate the situation.
- D. The provisions of this Article shall survive the termination or expiration of this Agreement.

35. GOVERNING LAW

The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the

State of California, and the proper venue of any action brought hereunder is and shall be the County of San Bernardino, California.

36. MODIFICATIONS TO AGREEMENT

Unless specified otherwise in the Agreement, this Agreement may only be modified by written mutual consent evidenced by signatures of representatives authorized to enter into and modify the Agreement. In order to be effective, amendments may require prior approval by OMNITRANS' Board of Directors, and in all instances require prior signature of an authorized representative of OMNITRANS.

37. LICENSING, PERMITS AND INSPECTION COSTS

- A. The CONTRACTOR warrants that it has all necessary licenses and permits required by the laws of the United States, State of California, and the County of San Bernardino, the Local Jurisdictions, and all other appropriate governmental agencies, and agrees to maintain these licenses and permits in effect for the duration of the Agreement. Further, FIRM warrants that its employees, agents, and contractors and subcontractors shall conduct themselves in compliance with such laws and licensure requirements including, without limitation, compliance with laws applicable to nondiscrimination, sexual harassment and ethical behavior throughout the duration of this Agreement. CONTRACTOR further warrants that it shall not retain or employ an unlicensed subcontractor to perform work on this Project. CONTRACTOR shall notify OMNITRANS immediately and in writing of its employees', agents', contractors' or subcontractors' inability to obtain or maintain, irrespective of the pendency of any appeal, any such licenses, permits, approvals, certificates, waivers, exemptions. Such inability shall be cause for termination of this Agreement.
- B. CONTRACTOR shall procure all permits and licenses; pay all charges, assessments and fees, as may be required by the ordinances and regulations of the public agencies having jurisdiction over the areas in which the work is located, and shall comply with all the terms and conditions thereof and with all lawful orders and regulations of each such public agency relating to construction operations under the jurisdiction of such agency.

38. PRECEDENCE

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement, and any and all of its Amendments, Appendices, Exhibits and Attachments; (2) provisions of IFB-MNT17-04 and any and all of its Addenda, Appendices, Exhibits and Attachments; and (3) CONTRACTOR's proposal dated November 2, 2016.

39. ENTIRE AGREEMENT

This Agreement, and any attachments or documents incorporated herein by inclusion or by reference, constitutes the complete and entire agreement between OMNITRANS and CONTRACTOR and supersedes any prior representations, understandings, communications, commitments, agreements or proposals, oral or written.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date shown below, and effective on the date first hereinabove written.

OMNITRANS

ABM BUILDING SOLUTIONS, LLC


P. Scott Graham
CEO/General Manager

Robert Bayer
Vice President

Date

Date

Federal Tax I.D. No. 20-0357058

DP 
CM 

ATTACHMENT A – SCOPE OF WORK
MNT17-04
HVAC & ENERGY MANAGEMENT SYSTEM (EMS) MAINTENANCE SERVICES

1. INTRODUCTION

A. This is a Full Service/Responsibility Contract. Contractor shall provide 100% coverage for all labor, parts and equipment, and a comprehensive preventative maintenance plan for all covered equipment and emergency services.

B. HVAC MECHANICAL EQUIPMENT/SYSTEMS

Provide ongoing preventative maintenance, repairs, and emergency services for the effective and economical operation of its Heating Ventilating and Air Conditioning equipment/systems as further described in Section 4, HVAC Mechanical Equipment Types and Section 5, Statement of Work –HVAC Mechanical Equipment Types. A maximum on-site response time within four (4) hours for all HVAC equipment/systems will also be required seven days a week.

C. ENERGY MANAGEMENT SYSTEM

Provide ongoing preventative maintenance services, repairs, and emergency services for the effective and economical operation of the TAC Vista / Xenta Energy Management System (EMS) located at the East Valley facility, and the Automated Logic EMS system located at the San Bernardino Transit Center (SBTC) as further described in Section 6, Statement of Work – Emergency Management System. An on-site response time (if needed) within four (4) hours is requested but the maximum guaranteed response time for all Energy Management System (EMS) is twenty-four (24) hours maximum seven days a week.

2. LOCATIONS

Maintenance and repair services shall take place at Omnitrans' five facilities and along the sbX E-Street Corridor:

A. The Metro facility (East Valley) is located at 1700 West Fifth Street, San Bernardino, CA. The East Valley complex is a 12.7 acre Administrative Offices and Maintenance Facility comprised of a 25,600 square foot, two-story office structure constructed in 1992 and a 127,000 square foot, two-story maintenance & operations building constructed in 1999.

B. The Montclair facility (West Valley) is located at 4748 Arrow Highway, Montclair, CA. The West Valley complex is a 5.5 acre Operations and Maintenance Facility consisting of a 7,445 square foot operations building constructed in 1987 and expanded by 3,000 sq. ft. in 2003 and a 20,285 square foot maintenance building constructed in 1987.

C. The "I" Street facility is located at 234 S. "I" Street, San Bernardino, CA. The "I" Street complex is a 4.7 acre site consisting of a 4,480 sq. ft. office building constructed in 1975 and a 14,000 sq. ft. vehicle maintenance building.

- D. The Feron Blvd facility is located at 9421 Feron Boulevard, Rancho Cucamonga which is a 1.3 acre site and houses a 5,285 sq. ft. office and maintenance building constructed in 1991. Omnitrans leases this property but is responsible for the HVAC maintenance and repairs. This location may be replaced within the next five years.
- E. The San Bernardino Transit Center (SBTC) is located at 599 W Rialto Ave, San Bernardino, CA 92410 which is a 4.5 acre site and houses a 6759 sq. ft. office building constructed in 2015. The SBTC is a Gold Leeds Certified facility.
- F. The sbX E-Street Corridor is a 15.7 mile corridor spanning from Northern San Bernardino to Loma Linda. The corridor has one restroom, four (4) park and ride locations and 16 station locations with 23 platforms.

3. **CONTRACTOR QUALIFICATIONS**

Contractor must have adequately trained personnel and have the capability to have such personnel to perform the requirements stated in this scope of work, to include:

- A. Service Company shall demonstrate a minimum of (10) years' experience in the commercial, mechanical, temperature control and direct digital control business by attaching copies of state and local licenses and certificates.
- B. Qualified Journey Level HVAC technicians that are minimum Type II EPA 608 Certified.
- C. At least two technicians assigned to the project that are NATE Certified.
- D. Certified TAC and Automated Logic automation service technicians on staff OR the company shall hire an authorized subcontractor(s) at its expense to service all TAC and Automated Logic automation systems to meet all maintenance and repair needs.
- E. Certified journeyman HVAC technician who has completed an apprenticeship in heating, ventilation and air conditioning and passed the journeyman HVAC examination.

4. **HVAC MECHANICAL EQUIPMENT TYPES**

(See exhibits for a complete list of equipment / filters)

- A. 1 ton – 50 ton A/C packaged units to include single package roof top units, dual package roof top units, single package large rooftop units, split systems, ductless systems, window units, and heat pumps.
- B. Split variable refrigerant flow (VRF) system with ceiling mounted cassette units, ducted fan coil units, and wall mounted fan coil units.
- C. Specialized single package small A/C units for control cabinets.
- D. Heating hot water boilers and ancillary equipment.
- E. Domestic hot water boiler, storage tank, and ancillary equipment.

- F. Single duct variable air volume (VAV terminal boxes with heating hot water re-heat.
- G. Compressed air dryers.

5. STATEMENT OF WORK - HVAC MECHANICAL EQUIPMENT/SYSTEMS

Contractor's work shall include the following tasks:

A. General Scope of Work

- 1) Provide full comprehensive maintenance and repair services for **All** HVAC (Heating, Ventilation, Air Conditioning) mechanical equipment/systems, including any ancillary equipment.
 - a) All service activities will be scheduled on a regular basis based upon manufacturer's recommendations, equipment location, application type, run time, industry standards, and Contractor's professional experience.
 - b) Include a conceptual schedule in the technical portion of your proposal
 - c) All labor and material costs for corrective and preventive maintenance are included within the scope of this agreement for an **ALL-INCLUSIVE MONTHLY FLAT FEE.**
 - (1) All maintainable/moving parts shall be replaced at no additional cost.
 - (2) All labor, including emergency repairs, shall be included at no additional cost.
- 2) Perform maintenance and repair services from the date indicated on the Schedule under the terms of this agreement for three (3) calendar years (base contract period) and two option years (if extended), unless earlier terminated as provided herein.
- 3) Contractor shall designate a point of contact to act as Contractor's representative for the performance of this Agreement regarding account management, technical assistance for system programs and all other issues related to the contract.

B. Maintenance Services

- 1) Scheduling:
 - a) Initiate, schedule, administer, monitor and update a full comprehensive maintenance program. The service activities will be directed and scheduled, on a regular basis by Contractor based upon the manufacturer's recommendations, equipment location, application type, run time, and Contractor's professional experience.
 - b) Non-emergency calls will be coordinated between Omnitrans and the Contractor. Routine service and preventive maintenance calls will be scheduled and coordinated between Omnitrans and the Contractor prior to the actual visit.

- c) Emergency services will be handled by service technicians who will be made available on an on-call basis twenty-four (24) hours a day, 365 days a year, with a maximum four (4) hour response time.

- (1) A written report regarding the condition of the equipment and/or service checklist will be provided to Omnitrans each time an emergency site visit has been completed.

2) Testing and Inspection(s):

Conduct recommended testing and visually inspect all components and systems described herein.

- a) Testing includes but is not limited to testing for excessive vibration, motor winding resistance, refrigerant charge, fan RPM, refrigerant oil (acid), water condition analysis, safety controls, combustion and draft, crankcase heaters, and control system(s).
- b) Inspections include but are not limited to visual inspection of worn, failed or doubtful parts, mountings, drive couplings, oil level, rotation, soot, flame composition and shape, pilot and igniter, and steam, water, oil and/or refrigerant leaks.

3) Technical Support:

- a) Provide systems troubleshooting, diagnostics and technical support for the operation of Omnitrans' HVAC equipment/systems.
- b) Provide recommendations for the upgrade of equipment through the systematic modernization of existing components as may be offered or recommended by the manufacturer.

4) Reports:

Document all services provided under the terms of this Agreement.

- a) Following each service call, Omnitrans will be notified and informed of the status, progress and results of each scheduled and unscheduled on-line and on-site inspection with a detailed Service Report provided no later than one day after the service call.
 - (1) Work orders for on-site system preventive maintenance will list the inspection date, individual to report to, equipment identification, equipment location, work to be performed, a brief description of activity and any special instructions.
- b) Each report must be submitted for Omnitrans' designated representative's review, approval signature and record.
- c) Maintain log of repairs for each piece of equipment to be provided to Omnitrans upon request.

5) Scheduled Inspections

Contractor shall visit all the facilities on a routine schedule to perform inspection tasks on HVAC systems that include the following as applicable:

- | | |
|-----------------------------|------------------------------------|
| • Coils | • Compressor operations |
| • Heat exchangers | • Motor operations |
| • Refrigerant piping | • Voltage and amp draws |
| • Bearings | • Refrigerant charge |
| • Belts and Pulleys | • Condensate drain |
| • Blowers | • Oil levels |
| • Fans/Blades | • Water levels |
| • Reversing valves | • Electrical/Relays and Contactors |
| • Operating/Safety Controls | |

6) Preventative Maintenance Actions

During scheduled inspection visits, contractor will provide pro-active hands-on maintenance services designed to improve equipment operations, increase efficiency, minimize breakdowns and prolong equipment life. These services are also defined in Maintenance Tasking and may include as applicable:

- | | |
|-----------------------------------|---------------------------------|
| • Bearing lubrications | • Coil cleaning |
| • Motor lubrications | • Safety control adjustments |
| • Belt adjustments or replacement | • Operating control adjustments |
| • Fan blade/blower cleaning | • Calibrations |
| • Condensate drain cleaning | • Oil analysis |
| • Refrigerant charge adjustments | • Equipment cleaning |

7) Materials

- a) The Contractor is responsible for all equipment including but not limited to: compressors, fan blades, condenser fan motors, all electrical parts on each HVAC unit, fuses, all pumps, filters, water treatment, strainers, refrigerant, controllers, VAV controllers, combustion motors, limit switches, gas valves, belts, shafts, sheaves, bearings, thermistors, fuses in electrical disconnect switch, thermostat wire, thermostats, circuit boards, line sets with insulation and variable speed drives.
- b) Pipe insulation repairs/replacement within the immediate area of a VAV terminal box, boiler, or circulating pump where repairs/replacement of components such as re-heat control valves, isolation valves, balancing valves, check valves, expansion joints, pipe and/or fittings are to be included in the event it is either removed or damaged in the course of repairs or maintenance.

8) Filter Service

Contractor will conduct filter services/changes scheduled at a frequency designed for best operating conditions and overall value to Omnitrans, not to

be less than three times annually unless otherwise noted. Filter service includes as applicable:

- a) Removal and proper discard of used filters/medias.
- b) Provide and deliver to jobsite replacement filters/medias.
- c) Installation of filters.
- d) Washing of filters as required and as applicable.
- e) Upgrading of type and frequency as required.

9) Closed Loop Heating Hot Water Treatment Service

Contractor shall test, analyze and adjust water treatment levels on a quarterly basis. This service includes chemicals required to maintain levels within industry specifications.

10) Outdoor Coil Cleaning Service

Contractor shall apply environmental and equipment safe cleaning agents to outdoor coil surfaces and rinse with pressured water. This service improves efficiency and contributes to extension of coil and equipment life.

11) Not Included in Contract

- a) Contractor is not responsible for ducting or heating hot water distribution lines that extend beyond the mechanical rooms.
- b) This service agreement does not include the repair or replacement of non-maintainable items such as electrical wiring, disconnect switches, control cabinets, unit cabinets, drain pans, furnace heat exchangers, evaporator coils, condenser coils, and VAV terminal boxes.

C. Maintenance Tasking

Perform preventive maintenance in accordance with a program of standard maintenance routines necessary to assure proper operating condition and peak efficiency as determined by professional experience, equipment application, location, and the manufacturer's recommendations. Preventive Maintenance tasks shall include, but are not limited to the following:

1) Package Air Conditioning Systems

- a) Lubricate fan bearings per manufacturer's recommendation.
- b) Lubricate motor bearings per manufacturer's recommendations.
- c) Check belts and sheaves. Adjust and replace as required.
- d) Check coils. Straighten fins as required.
- e) Lubricate and adjust dampers and linkages.

- f) Check and clean drain pan and drains.
- g) Inspect filters and change per filter schedule.
- h) Check motor operating conditions.
- i) Inspect electrical connections, contactors, relays, and operating/safety controls.
- j) Check compressor oil level. Check crankcase heater operation.
- k) Start compressor. Check operating conditions and adjust as required.
- l) Secure unit panels, and inspect roof curb flashing.
- m) Check refrigerant charge.
- n) Inspect all temperature, safety, and operational controls

2) Condensing Units – Air Cooled

- a) Review manufacturer's recommendation for start-up
- b) Energize crankcase heater per manufacturer's recommendation for warm-up.
- c) Visually inspect for leaks.
- d) Inspect electrical connections, contactors, relays, and operating/safety controls.
- e) Check vibration eliminators. Adjust and replace as required.
- f) Check compressor oil level. Change oil and refrigerant filter drier as required.
- g) Check and test all operating and safety controls.
- h) Check operating conditions. Adjust as required.

3) Fan Coil Units

- a) Inspect motor. Clean and lubricate.
- b) Lubricate bearings.
- c) Inspect coil(s) for leaks dependent on accessibility.
- d) Inspect drain pan or pipe and clean as required.
- e) Inspect belt and adjust tension. Replace as required
- f) Test operation unit internal on-off switch.
- g) Change filters per filter schedule.

4) Reciprocating Compressors

- a) Visually inspect for leaks.
- b) Check coupling alignment. Replace and adjust as required.
- c) Check compressor oil level. Change oil and refrigerant filter as required.

- d) Check crankcase heater operation.
- e) Check vibration eliminators. Replace or adjust as required.
- f) Inspect electrical connections, contactors, relays and operating/safety controls.
- g) Review manufacturer's recommendations for start-up.
- h) Check auxiliary equipment operation.
- i) Energize crankcase heater per manufacturer's recommendation for crankcase warm-up.
- j) Check and test all operating and safety controls.
- k) Check refrigerant charge, oil level and oil pressure. Adjust as required.

5) Central Fan Systems – Air Handlers

- a) Check and clean fan assembly.
- b) Check and repair any damaged internal sound dampening or insulating materials.
- c) Verify proper economizer operation.
- d) Lubricate fan bearings per manufacturer's recommendation.
- e) Lubricate motor bearings per manufacturer's recommendation.
- f) Check belts and sheaves. Adjust and replace as required.
- g) Tighten all nuts and bolts.
- h) Check motor mounts and vibration pads. Adjust as required.
- i) Check motor operating conditions.
- j) Inspect electrical connections and contactors.
- k) Lubricate and adjust associated dampers and linkage.
- l) Check fan operation.
- m) Clean outside air intake screen.
- n) Check and clean drains and drain pans (Annually).
- o) Check and clean strainers (Annually).
- p) Inspect filters and replace per filter schedule.
- q) Check indoor cooling coil and clean as required.

6) Boilers (Domestic hot water & hydronic heating)

- a) Inspect fireside of boiler and record condition (Annually).
- b) Brush soot and dirt from combustion chamber (Annually).
- c) Clean burners (Annually)

- d) Clean pilot assembly (Annually)
- e) Inspect firebrick and refractory for defect (Annually).
- f) Visually inspect boiler pressure vessel for possible leaks and record condition.
- g) Disassemble, inspect and clean low-water cutoff (Annually).
- h) Check hand valves and automatic feed equipment. Repack and adjust as required.
- i) Inspect, clean and lubricate the burner and combustion air equipment (Annually).
- j) Check fuel piping for leaks and proper support.
- k) Check burner sequence of operation and combustion air equipment.
- l) Review manufacturer's recommendation for boiler and burner start-up.
- m) Check auxiliary equipment operation.
- n) Inspect burner, boiler and controls prior to start-up.
- o) Start burner and check operating controls.
- p) Test safety controls.
- q) Verify gauges and thermometers for accuracy. Replace as necessary.
- r) Maintain and repair as necessary all related hydronic heating hot system piping, fittings, isolation valves, expansion tanks, control valves, hangers, supports, and pipe insulation within the mechanical room where the boiler is located.
- s) Clean and inspect domestic hot water storage tank at the East Valley facility on an annual basis. Re-line tank, replace sacrificial anode, and temperature & pressure relief valve as needed (no later than 12/2017).

7) Pumps

- a) Lubricate pump bearings per manufacturer's recommendations.
- b) Lubricate motor bearings per manufacturer's recommendations
- c) Tighten all nuts and bolts. Check motor mounts and vibration pads. Replace and adjust as required.
- d)
- e) Visually check pump alignment and coupling.
- f) Check motor operating conditions.
- g) Inspect electrical connections and contactors.
- h) Check and clean strainers and check hand valves (Annually).
- i) Inspect mechanical seals. Inspect pump packing.

- j) Verify gauges and thermometers for accuracy. Replace as necessary.
- 8) Refrigerated Air Driers
- a) Inspect exterior. Clean as required.
 - b) Inspect starter and disconnect, and clean contacts.
 - c) Clean or replace intake filter element as required.
 - d) Inspect, clean and lubricate motor.
 - e) Perform sequence test of all controls.
 - f) Test check valve operation if applicable.
 - g) Test operation of automatic tank drain if applicable.
 - h) Verify proper operation of refrigerated air drier.
- 9) Packaged Variable Air Volume Systems (Packaged AHU)
- a) Review manufacturer's recommendation for start-up.
 - b) Energize crankcase heater per manufacturer's recommendation for warm-up.
 - c) Visually inspect for leaks.
 - d) Inspect operation of hot gas by-pass.
 - e) Inspect electrical connections, contactors, relays, and operating/safety controls.
 - f) Check vibration eliminators. Replace or adjust as required.
 - g) Check compressor oil level. Change oil and refrigerant filter drier as required.
 - h) Check and test all operating and safety controls.
 - i) Inspect operating temperatures and pressures.
 - j) Check fan assembly.
 - k) Lubricate fan bearings per manufacturer's recommendations.
 - l) Lubricate motor bearings per manufacturer's recommendations.
 - m) Check belts and sheaves. Adjust and replace as required.
 - n) Tighten all nuts and bolts.
 - o) Check motor mounts and vibration pads. Adjust as required.
 - p) Check motor operating conditions.
 - q) Lubricate and adjust associated dampers and linkage and controls.
 - r) Check fan operation.
 - s) Check inlet guide vanes or VFD for proper operation.

- t) Clean outside air intake screen.
- u) Check and clean drains and drain pans.
- v) Inspect filters. Change per schedule.

10) Variable Frequency Drives

- a) Inspect and tighten all nuts, bolts, and retaining devices on mechanical assemblies and mounting brackets.
- b) Verify all electrical connections are at proper torque settings.
- c) Clean/Change all cooling filters and grills if applicable.
- d) Remove all dirt and dust that has penetrated the unit interior or accumulated on the processor boards using high-pressure nitrogen.
- e) Verify and record all inverter settings.
- f) Verify and all internal power supplies, and logic outputs. Record as applicable.
- g) Check proper operation of DC buss capacitors.
- h) Check all external controls related to the operation of the inverter.
- i) Provide any recommendations, parameter changes, etc. in written form.

D. Repairs

1) Corrective Maintenance and Component Replacement:

Repair and replace failed or worn components of the mechanical systems in order to maintain the HVAC systems in peak operating condition. Components that are suspected of being faulty should be repaired or replaced in advance to prevent system failure.

- 2) Perform maintenance inspections, repairs, and on-site response services, for an **ALL-INCLUSIVE MONTHLY FLAT RATE.**
 - a) Repair and replacement of components and/or parts shall only include job labor required to repair or remove and replace broken, worn and or/doubtful components. All other expenses are subject to written authorization by Omnitrans' designated representative under the terms of this agreement.
 - b) All components, parts and supplies required for the ordinary and efficient operation of the equipment shall be included in the monthly flat rate.
- 3) Maintain log of repairs for each piece of equipment to be provided to Omnitrans upon request.

E. Coordination

The Contractor's principal, or responsible representative authorized to make decisions, shall meet monthly with the Manager and/or Supervisor of Facility Maintenance and, if necessary, more frequently, to review contract performance,

repairs, emergency service, scheduling, and other matters pertaining to HVAC maintenance.

F. Refrigerant Management

The Contractor shall provide the necessary tasks and reports required by SCAQMD, Rule 1415, and EPA Clean Air Act, Section 608, as they relate to the management and handling of refrigerant.

6. STATEMENT OF WORK - ENERGY MANAGEMENT SYSTEMS

(See exhibits for a complete list of equipment)

A. Types of HVAC and other equipment controlled by the TAC Vista/Xenta & Automated Logic Energy Management Systems.

1) Equipment

- a) 1 ton – 50 ton A/C packaged units to include single package roof top units, dual package roof top units, single package large rooftop units, split systems, ductless systems, window units, and heat pumps.
- b) Split variable refrigerant system (VRF) with ceiling mounted cassette units, ducted fan coil units, and wall mounted fan coil units.
- c) Single duct VAV terminal boxes with heating hot water re-heat.
- d) Make up air units.
- e) Heating hot water boilers and ancillary equipment.
- f) General and specific exhaust fan systems.
- g) Interior and exterior lighting control.

2) Covered components on equipment listed above include the following as applicable:

- a) DDC Controllers
- b) Control Valves
- c) Expansion Modules
- d) DDC Thermostats
- e) VAV Box Controls/Sensors Actuators
- f) Damper Motors

B. Scope of Preventative Maintenance Services:

1) Energy Management Systems preventive measures shall consist of but is not limited to the following tasks:

- a) Menta file downloads/uploads, Lonmaker integration and commissioning, Vista database resynchronization and back up.

- b) Vista data base maintenance, software patches, back ups, and SQL database maintenance on the Vista Server.
- c) Troubleshooting and repair of the FTT-10/TP-2 Lon communications network.
- d) Checking and calibrating all temperature, humidity and pressure sensors
- e) Verify/upgrade control module's internal firmware
- f) Manually scan entire system for a "Network Health Check". Make any needed repairs to system
- g) Inspect and clean all dedicated control cabinets
- h) Tighten all control wire terminations
- i) Inspect all 4 databases for corruption
- j) Compact all 4 databases (core, trend, audit, event)
- k) Perform "disc cleanup" of hard drive
- l) Perform disc de-fragmentation
- m) Perform latest updates for Windows, Java, and Virus Protection software where required
- n) Review system trends to verify system is working properly
- o) Speak with customer about any issues
- p) Make any programming changes requested by customer
- q) Mark up existing control drawings with any changes made and provide to customer.
- r) Create 2 system backups, one copy to be securely stored off site, one copy to remain with customer
- s) Perform any additionally requested training with customer
- t) Checking and adjusting all dampers.
- u) Checking and adjusting all valves.
- v) Calibration of all output transducers.
- w) Calibration of the static pressure transmitters.
- x) Checking that all controllers are online and program is intact.
- y) Checking for disabled points and programs.
- z) Checking and calibrating zones — including sensors and dampers.
- aa) Verify temperature and static pressure reset schedules are working.
- bb) Verify supply fan and VFD operation.
- cc) Verify economizer and exhaust fan operation.

- dd) Log all problems in an onsite History Log Book.
 - ee) Maintain the display pages and make changes as Facilities personnel require.
 - ff) Software maintenance, file maintenance and data base backups (on-site and remote) including system optimization.
 - gg) Investigation of reported problems recorded between visits in the on-site trouble log.
 - hh) Historical Log Review.
 - ii) Field sensor accuracy verification and calibration based on spot checks.
 - jj) Hardware communication tests and functional verification of proper and consistent digital communication.
 - kk) Control Program and loop evaluation, modification, enhancement and tuning.
 - ll) Hours of Service: Contractor shall be available for extra calls on a daily basis, five (5) days per week, Monday through Friday. Standard Hours are 7:00 am to 4:00 pm. Monday through Friday.
 - mm) Typical response time to an after-hours request is within two (2) hours.
 - nn) Remote Dial-Up Technical support (up to an additional 4 hrs per year).
 - oo) Supplemental training of system users and operators.
- 2) Services shall include a basic check of the installed system over the term of this agreement including user interface, controllers and control devices. Specific services may include selected operational checks, selected calibrations, archiving of data, backup of system database, addressing Omnitrans specific concerns, training, etc.
 - 3) Submit a maintenance schedule in your proposal and also include any maintenance items you recommend that are not listed.
 - 4) Repair services include a two (2) hour response time for off-site “dial-up” diagnostics. A four (4) hour response time is requested for on-site repairs with a twenty-four (24) hour maximum response time.

B. Coordination

The Contractor’s principal, or responsible representative authorized to make decisions, shall meet monthly with the Manager and/or Supervisor of Facility Maintenance and, if necessary, more frequently, to review contract performance, repairs, emergency service, scheduling, and other matters pertaining to TAC Vista / Xenta, and Automated Logic Energy Management Systems maintenance.

7. ADDITIONAL SERVICES

During the course of the contract, should the Contractor have recommendations that will reduce operating expenses, Contractor may provide Omnitrans with a written plan outlining specific energy saving recommendations including the cost of the modification and an estimated savings with number of years to ‘pay back’ for each modification.

These recommendations and their cost savings are left to Omnitrans to make the final decision whether or not to perform such modification. The competitive bid process may be required for this procurement.

8. END OF CONTRACT EQUIPMENT STATUS VERIFICATION

Three (3) months prior to the conclusion of this contract, the contractor (at their expense) shall hire a third party company (approved by Omnitrans) to verify that the maintenance is up to date on the HVAC equipment and automation systems, and that there are no outstanding repairs needed. Any repairs that are identified shall be corrected by the incumbent contractor (at their expense) prior to the expiration of contract. This task is a onetime event that is to occur prior to either the base years, or option years expiring. In either event, it is at the discretion of Omnitrans as to when this event will occur.

9. WORKPLACE SAFETY

The contractor shall ensure that all of its operations strictly adhere to all Federal, State, and Local safety and environmental laws and regulations. Omnitrans reserves the right to correct unsafe practices by the contractor's employees, or to stop work until the contractor makes the necessary corrections.

A. Smoking

Omnitrans uses designated areas for smoking. Smoking is not allowed at anytime in the bus yard, on or in any buildings, or by the entrances to any buildings. Smoking by employees of the contractor, or his sub-contractors, shall not create a hazardous condition for themselves, co-workers, or employees and property of Omnitrans.

B. Eye Protection

- 1) Per Omnitrans eye protection policy, ANSI Z87 approved eye protection shall be worn by all persons while conducting business outside the boundaries of the established "green zone". The policy also requires that eye protection be utilized if hazardous work is being conducted within the "green zone". The contractor shall ensure that all of its employees have been provided eye protection that meets the requirement.
- 2) The project manager, or his designee, reserves the right to stop the contractor's work in the event that a contractor employee is in violation, and that work will remain stopped until the violation is corrected.

C. Vests

- 1) Contractors and their employees working or performing services in outside work zones shall wear ANSI Class 2 Safety Vests. ANSI Class 2 Safety Vests must be worn at all times in the bus yard and in the relief vehicle locations.
- 2) Safety Vests are not required while in designated, marked with painted green borders Safety Zones on Agency property or while on sidewalks, curbs, or raised pavement.

D. Hazardous Materials

- 1) Contractor shall perform all work in a clean, safe and professional manner, causing no hazards to Omnitrans staff, facility the environment or Contractors service personnel.
- 2) All hazardous waste shall be handled, collected, stored and disposed of in accordance with federal, state and local environmental compliance regulations.
- 3) Coordination of hazardous waste collection, storage, and disposal shall be made through the Omnitrans' Facility Manager, or his designee.

End Scope of Work

Exhibits:

- Exhibit 1.1 – HVAC List all sites except San Bernardino Transit Center (SBTC)
- Exhibit 1.2 – Filter List all sites except San Bernardino Transit Center (SBTC)
- Exhibit 2 – Filter List SBTC
- Exhibit 3 – HVAC List/Drawings SBTC
- Exhibit 4 – Emergency Management System (TAC) List/Drawings for East Valley
- Exhibit 5 – Emergency Management System (Automated Logic) List/Drawings for SBTC
- Exhibit 6 – HVAC/Filter List for sbX Corridor

ATTACHMENT B

REGULATORY REQUIREMENTS

**THESE REGULATORY REQUIREMENTS APPLY TO THE
FOLLOWING CONTRACTS**

- #F5 CONTRACT MNT17-04, HVAC AND
ENERGY MANAGEMENT SYSTEM (EMS)
MAINTENANCE SERVICES**
- #F6 CONTRACT #MNT17-15, PAINT AND
CARPET REPLACEMENT AND INSTALLATION**
- #F7 CONTRACT MNT17-39, LANDSCAPING
SERVICES**

Attachment B

REGULATORY REQUIREMENT

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REGULATORY REQUIREMENTS

*** Marks Required Subcontract Provisions that must flow down to all subcontracts as defined in the Article entitled SUBCONTRACTORS AND SUPPLIERS herein.**

RR-01

ADMINISTRATIVE CODE *

A. Applicability

This Article applies to all contracts.

B. Compliance with §§1090 et. seq. and §§87100 et. seq. of the California Government Code

Contractor shall comply with all applicable provisions of §§1090 et. seq. and §§87100 et. seq. of the California Government Code. Without reducing or affecting its obligation to comply with any and all of said provisions, Contractor specifically covenants:

1. Contractor shall not cause or permit any member, officer, or employee of Omnitrans to have any financial interest in the Contract;
2. Contractor shall not enter into any Subcontract involving services or property with a person or business prohibited from transacting such business with Omnitrans;
3. Contractor warrants and represents that to its knowledge no Board member, officer, or employee of Omnitrans has any interest, whether contractual, non-contractual, financial or otherwise, in this Contract, or in the business or any other contract or transaction of the Contractor or any Subcontractor and that if any such interest comes to Contractor's knowledge at any time, Contractor shall make a full and complete disclosure of all such information in writing to Omnitrans.

C. Campaign Contributions

Neither Contractor nor its Agents shall give or offer to give any campaign contribution to any member of Omnitrans Board of Directors in violation of the California Government Code §§84300 et seq., or of the Administrative Code. Contractor shall submit a Certification of Campaign Contributions with all COs of two hundred thousand dollars (\$200,000) or more.

RR-02
DISCRIMINATION *

A. Applicability

This Article applies to all contracts.

- B.** In connection with the performance of Work provided for under this Contract, Contractor agrees that it will not, on the grounds of race, religious creed, color, national origin, ancestry, physical disability, medical condition, marital status, sex, sexual orientation, or age, discriminate or permit discrimination against any person or group of persons in any manner prohibited by Federal, State or local laws.

RR-03
WHISTLEBLOWER REQUIREMENTS *

A. Applicability

This Article applies to all contracts.

- B.** Contractor shall not adopt any rule, regulation, or policy preventing an employee from disclosing information to a government or law enforcement agency, where the employee believes the information discloses violation or noncompliance with a state or Federal regulation; nor shall Contractor retaliate against an employee for taking such actions as set forth in the t. seq.

RR-04
PUBLIC RECORDS ACT *

A. Applicability

This Article applies to all contracts.

- B.** Except as otherwise provided herein, all records, documents, drawings, plans, specifications, and all other information relating to the conduct of Omnitrans business, including all information and documents submitted by Contractor ("Records"), shall become the exclusive property of Omnitrans and shall be deemed public records. Said Records are subject to the provisions of the California Public Records Act (Government Code §6250 et. seq.). Omnitrans use and disclosure of its records are governed by this Act. Omnitrans will use its best efforts to inform the Contractor of any request for any financial records or documents marked "Trade Secret", "Confidential" or "Proprietary" provided by Contractor to Omnitrans. Omnitrans will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act.
- C.** In the event of litigation concerning the disclosure of any Records, Omnitrans sole involvement will be as a stakeholder, retaining the Records until otherwise ordered by a

court. The submitting party, at its sole expense and risk, shall be fully responsible for any and all fees for prosecuting or defending any action concerning the Records and shall indemnify and hold Omnitrans harmless from all costs and expenses including attorney's fees in connection with any such action.

RR-05

ACCESS TO RECORDS *

A. Applicability

This Article applies to all federally funded contracts.

- B. Contractor agrees to provide Omnitrans, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or the FTA's authorized representatives, including any FTA Project Management Oversight Contractor, access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a) 1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
- C. If this Contract is for a capital project or improvement (defined at 49 U.S.C. 5302(a) 1) and was entered in to through other than competitive bidding, the Contractor shall make records related to this Contract available to Omnitrans, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
- D. Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case Contractor agrees to maintain same until Omnitrans, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

RR-06

FEDERAL FUNDING, INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS, AND FEDERAL CHANGES*

A. Applicability

This Article applies to all federally funded contracts.

- B. This Contract includes, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the Contract provisions. All contractual provisions

required by DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008 and revised March 18, 2013 (including any changes), and are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Omnitrans requests which would cause Omnitrans to be in violation of the FTA terms and conditions.

This Contract is subject to a financial assistance agreement between Omnitrans and the Federal Transit Administration of the US Department of Transportation and all laws, regulations, guidelines, and provisions of the financial assistance agreement apply to this Contract and are incorporated by reference as if fully set forth herein.

- C. Contractor shall at all times comply with all applicable federal laws and regulations, including without limitation FTA regulations, policies, procedures and directives, including those listed directly or by reference in Applicable Grant Agreements between Omnitrans and FTA, as they may be amended or promulgated from time to time during the term of this Contract collectively “Federal Requirements”. These Federal Requirements may change and the changed Federal Requirements will apply to this Contract as required unless the Federal Government determines otherwise. Contractor's failure to so comply with the Federal Requirements shall constitute a material breach of this Contract.

RR-07

ENERGY CONSERVATION REQUIREMENTS

- A. **Applicability**

This Article applies to all federally funded contracts.

- B. Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act 42 USC §6321 et seq.

RR-08

CIVIL RIGHTS REQUIREMENTS *

- A. **Applicability**

This Article applies to all federally funded contracts.

- B. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, national

origin, sex, age, or disability. In addition, Contractor shall comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

C. Equal Employment Opportunity

- (a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, Contractor shall comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq. , (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect activities undertaken in the course of the Contract. Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, Contractor shall comply with any implementing requirements FTA may issue.
- (b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, Contractor shall refrain from discrimination against present and prospective employees for reason of age. In addition, Contractor shall comply with any implementing requirements FTA may issue.
- (c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, Contractor shall comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, Contractor shall comply with any implementing requirements FTA may issue.
- (d) Contractor shall include these requirements in each subcontract, modified only if necessary to identify parties, as required by Federal regulations.

RR-09**NO GOVERNMENT OBLIGATION TO THIRD PARTIES *****A. Applicability**

This Article applies to all federally funded contracts.

- B. Notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award this Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to Omnitrans, Contractor, or any other party (whether or not a party to that Contract) pertaining to any matter resulting from this Contract.

Contractor shall include this Article in each Subcontract and shall not modify the Article, except to identify the Subcontractor who will be subject to its provisions.

RR-10**PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS *****A. Applicability**

This Article applies to all federally funded contracts.

- B. The provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, shall apply to actions pertaining to this Contract. Upon execution of this Contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining this Contract or the FTA assisted project for which this Contract work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.
- C. Contractor also acknowledges that this Contract is connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307 and if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on Contractor, to the extent the Federal Government deems appropriate.

- D. Contractor shall include this Article in each subcontract financed in whole or in part with Federal assistance provided by FTA. Contractor shall not modify the Article, except to identify the Subcontractor who will be subject to the provisions.

RR-11

SUSPENSION AND DEBARMENT*

A. Applicability

This article applies to federally funded contracts and subcontracts at any level expected to equal or exceed \$25,000 as well as any contract or subcontract (at any level) for Federally required auditing services.

- B. This Contract is a covered transaction for purposes of 49 CFR Part 29. As such, Contractor shall verify that none of the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

Contractor shall comply with 49 CFR 29, Subpart C and shall include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

- C. By entering into this Contract, Contractor certifies that it shall comply with the requirements of 49 CFR 29, Subpart C throughout the period of this Contract. This certification is a material representation of fact relied upon by Omnitrans. If it is later determined that Contractor knowingly rendered an erroneous certification, in addition to remedies available to Omnitrans, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

RR-12

RECYCLED PRODUCTS

A. Applicability

This Article applies to federally funded operations/management, construction, or materials & supplies contracts for items designated by the Environmental Protection Agency, when procuring \$10,000 or more per year.

- B. To the extent practicable and economically feasible, a competitive preference shall be given for products and services that conserve natural resources and protect the environment and are energy efficient.
- C. The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

RR-13

CLEAN WATER AND CLEAN AIR REQUIREMENTS*

A. Applicability

This Article applies to all federally funded contracts over \$100,000.

B. CLEAN WATER REQUIREMENTS

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., and all applicable clean water standards of the State of California and any state or local agency having jurisdiction. Contractor shall report each violation to Omnitrans. Omnitrans will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office, and all other agencies having jurisdiction.

C. CLEAN AIR

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. and all applicable Clean Air Standards of the State of California or any state or local agency having jurisdiction. Contractor shall report each violation to Omnitrans. Omnitrans will, in turn, report each violation as required to FTA, the appropriate EPA Regional Office and all other agencies having jurisdiction.

- C. Contractor shall include this Article in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

RR-14

COMPLIANCE WITH FEDERAL LOBBYING POLICY *

A. Applicability

The following Article applies to federally funded contracts over \$100,000.

- B. The Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, requires that Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying," attached hereto as the certification entitled, "Certification of Compliance with Federal Lobbying Requirements." As set forth in the certifications, each tier of subcontractors shall certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with

non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures shall be forwarded from tier to tier up to Omnitrans.

RR-15

BUY AMERICA *

A. Applicability

The following Article applies to federally funded rolling stock purchase and construction contracts over \$100,000 and to contracts over \$100,000 for materials & supplies for steel, iron, or manufactured products.

- B. Contractor shall comply with 49 U.S.C. 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.

Omnitrans may investigate Contractor's, any Subcontractor's, and any Supplier's compliance with this Article. If an investigation is initiated, Contractor, Subcontractor, or Supplier shall document its compliance, in accordance with 49 CFR 661.15, and cooperate with the investigation. Contractor shall incorporate the Buy America conditions set forth in this Article in every subcontract or purchase order and shall enforce such conditions.

- C. FTA requires a Buy America certification to be submitted with the proposal, or the proposal shall be considered non-responsive.

RR-16

CARGO PREFERENCE*

A. Applicability

The following Article applies to federally funded contracts involving equipment, materials, or commodities which may be transported by ocean vessels

B. USE OF UNITED STATES FLAG VESSELS

Contractor shall use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or

commodities pursuant to this Contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels.

Contractor shall furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the Omnitrans (through Contractor in the case of a subcontractor's bill-of-lading.)

Contractor shall include these requirements in all subcontracts issued pursuant to this Contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

RR-17 FLY AMERICA

A. Applicability

This Article applies to federally funded contracts if the contract or subcontracts may involve the international transportation of goods, equipment, or personnel by air.

- B. Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and sub recipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

RR-18 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT *

A. Applicability

This Article applies to federally funded construction contracts over \$2,000 (including ferry vessels), rolling stock purchases over \$2,500 and to operations/management contracts over \$2,500 (except transportation services)

- B. Pursuant to the Labor Standards Provisions Applicable to Non-construction Contracts subject to the Federal Contract Work Hours and Safety Standards Act, 40 U.S.C.A. § 327 through 332 as implemented by U.S. Department of Labor regulations, 29 CFR 5.5 (b) and (c) Contractor and Subcontractor's contracting for any part of the Contract work shall comply with the following:
1. **Overtime requirements** – Neither Contractor nor any Subcontractor contracting for any part of the Contract work that requires or involves the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
 2. **Violation; liability for unpaid wages; liquidated damages** – In the event of any violation of the Article set forth in paragraph (1) of this Article Contractor and any Subcontractor responsible therefore shall be liable for the unpaid wages. In addition, Contractor and Subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this Article, in the sum of ten dollars (\$10) for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this Article.
 3. **Withholding for unpaid wages and liquidated damages** – Omnitrans shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by Contractor or Subcontractor under the Contract or any other Federal contract with Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by Contractor, such sums as may be determined to be necessary to satisfy any liabilities of Contractor or Subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this Article.
 4. **Subcontracts** – Contractor or Subcontractor shall insert this Article in any Subcontracts and also an Article requiring the Subcontractors to include this Article in any lower tier Subcontracts. Contractor shall be responsible for compliance by any Subcontractor or lower tier Subcontractor with this Article.
 5. **Payrolls and basic records** – The records to be maintained hereinabove shall be made available by Contractor or Subcontractor for inspection, copying, or transcription by Omnitrans and U.S. Dept. of Labor. Contractor and Subcontractor shall maintain payrolls and basic records during the course of the work and shall preserve them for a period of three (3) years from the completion of the Contract

for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made and actual wages paid.

RR-19

DISADVANTAGED BUSINESS ENTERPRISE (DBE) 49 CFR Part 26

Disadvantaged Business Enterprises

- A. This Contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is 8.4%.
- B. Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted Contract. Failure by Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as Omnitrans deems appropriate. Each subcontract Contractor signs with a subcontractor must include the assurance in this paragraph (*see* 49 CFR 26.13(b)).
- C. Bidders are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. Award of this contract is conditioned on submission of the following concurrent with and accompanying sealed bid concurrent with and accompanying an initial proposal prior to award:
 - 1. The names and addresses of DBE firms that will participate in this contract;
 - 2. A description of the work each DBE will perform;
 - 3. The dollar amount of the participation of each DBE firm participating;
 - 4. Written documentation of the bidder's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;
 - 5. Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
 - 6. If the contract goal is not met, evidence of good faith efforts to do so.

Bidders must present the information required above as a matter of responsiveness with initial proposals prior to contract award] (*see* 49 CFR 26.53(3)).

The successful bidder will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

- D. Contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 7 days after the contractor's receipt of payment for that work from the Omnitrans. In addition, Contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to his contract is satisfactorily completed.
- E. Contractor must promptly notify Omnitrans whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of Omnitrans.

RR-20

ADA ACCESS

A. Applicability

This Article applies to federally funded Architect & Engineer, Operations/Management, Rolling Stock Purchase, and Construction contracts

B. Access Requirements for Persons with Disabilities

Contractor shall comply with:

1. The requirements of 49 U.S.C. § 5301(d), which states the Federal policy that elderly persons and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy;
2. All applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps;
3. The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act;
4. The Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act; and

5. All applicable requirements of the following regulations and any subsequent amendments thereto:
- (1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;
 - (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
 - (3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;
 - (4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
 - (5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
 - (6) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
 - (7) U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
 - (8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and
 - (9) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194; and
 - (10) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609;
 - (11) Any implementing requirements FTA may issue.

RR-21

ALCOHOL AND DRUG-FREE WORKPLACE PROGRAM *

A. Applicability

This Article applies to federally funded contracts for transit operations.

B. FTA Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations Regulations

Contractor and its Subcontractors shall comply with the FTA anti-drug and alcohol misuse regulations (49 CFR Part 655) and the U.S. Department of Transportation (DOT) Procedures for Transportation Workplace Drug and Alcohol Testing Programs (49 CFR Part 40) to the full extent that they are, by their terms, applicable to Contractor and its Subcontractors. The regulations apply to all “contractors” that have “covered employees” that perform “safety sensitive functions” as those terms are defined in the regulations.

C. Certificate of Compliance

The CERTIFICATE OF COMPLIANCE WITH 49 CFR PARTS 655, PREVENTION OF ALCOHOL MISUSE AND PROHIBITED DRUG USE IN TRANSIT, submitted by Contractor prior to award, is incorporated as part of the Contract Documents.

D. Drug and Alcohol Testing Program

In the event that any part of the Work under this Contract falls within the scope of 49 CFR Part 655, Contractor, and its Subcontractors (as applicable), shall establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of California, or Omnitrans, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. Contractor shall annually certify its compliance with Parts 653 and 65. To certify compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

E. Alcohol and Drug Free Workplace Program

In addition to the above, for Work performed on Omnitrans property, Contractor shall provide an Alcohol and Drug-free Workplace Program in accordance with FTA requirements found at <http://transit-safety.fta.dot.gov/DrugAndAlcohol/default.asp>

RR-22

TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS *

A. Applicability

Subject to the limitations in Sections B, C, and D, this Article applies if this Contract involves transit operations to be performed by employees of a Contractor recognized by FTA to be a transit operator, and if FTA has determined that it is financed in whole or in part with Federal assistance.

B. General Transit Employee Protective Requirements

If FTA has determined that this Contract involves transit operations financed in whole or in part with Federal assistance (other than Federal assistance authorized by 49 U.S.C. § 5310(a)(2) or 49 U.S.C. § 5311), and if the U.S. Secretary of Transportation has determined that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for Omnitrans under this Contract, then Contractor shall perform the transit operations work under the Contract in compliance with terms and conditions, (a) determined by the U.S. Secretary of Labor to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. Department of Labor (“U. S. DOL”) guidelines at 29 C.F.R. Part 215, and any amendments thereto, and (b) stated in a U. S. DOL letter of certification to FTA, the date of which is set forth in the applicable Grant Agreement or Cooperative Agreement with Omnitrans, and which is incorporated in the Form of Contract as a Contract Document entitled “U. S. DOL Certification”.

C. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a) (2) for Elderly Individuals and Individuals with Disabilities

If FTA has determined that this Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for Omnitrans under the Contract, Contractor shall perform the Work in compliance with the terms and conditions determined, (a) by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto, and (b) stated in the U.S. DOL's letter of certification to FTA, the date of which is set forth in the applicable Grant Agreement or Cooperative Agreement with Omnitrans, and which is incorporated in the Form of Contract as a Contract Document entitled “U. S. DOL Certification”.

D. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas

If FTA has determined that this Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, Contractor shall comply

with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

E. Indemnity

Contractor shall defend, indemnify and hold harmless Omnitrans, and its Board Members, employees and agents from and against all liability, claims, demands actions, costs, judgments, penalties, damages, losses and expenses arising out of or in connection with Contractor's failure to comply with or failure to carry out its responsibilities under all applicable provisions of Sections B, C and D of this Article.

RR-23

BONDING REQUIREMENTS

Applicability to Contracts

For those construction or facility improvement contracts or subcontracts exceeding \$100,000, FTA may accept the bonding policy and requirements of the recipient, provided that they meet the minimum requirements for construction contracts as follows:

- A. A bid guarantee from each bidder equivalent to ten (10) percent of the bid price. The "bid guarantees" shall consist of a firm commitment and may be in any of the following forms: (a) cash; (b) cashier's check payment to Omnitrans; (c) a certified check payable to the city; or (d) a bidder's bond executed by an admitted surety insurer. Such as a bid bond, certifies check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
- B. A performance bond on the part of the Contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- C. A payment bond on the part of the Contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work provided for in the contract.

RR-24

DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS

Background and Application

The Davis-Bacon and Copeland Acts are codified at 40 USC 3141, *et seq.* and 18 USC 874. The Acts apply to grantee construction contracts and subcontracts that "at least partly are financed by a loan or grant from the Federal Government." 40 USC 3145(a), 29 CFR 5.2(h), 49 CFR 18.36(i) (5). The Acts apply to any construction contract over \$2,000. 40 USC 3142(a), 29 CFR 5.5(a). 'Construction,' for purposes of the Acts, includes "actual construction, alteration and/or

repair, including painting and decorating.” 29 CFR 5.5(a). The requirements of both Acts are incorporated into a single clause (*see* 29 CFR 3.11) enumerated at 29 CFR 5.5(a) and reproduced below.

The clause language is drawn directly from 29 CFR 5.5(a) and any deviation from the model clause below should be coordinated with counsel to ensure the Acts’ requirements are satisfied.

Clause Language

Davis-Bacon and Copeland Anti-Kickback Acts

(1) **Minimum wages** - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and
(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

(4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a) (1) (v) (B) or (C) of this section, shall be paid to all workers performing work in the Classification under this contract from the first day on which work is performed in the classification.

(2) **Withholding** - Omnitrans shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice,

trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, Omnitrans may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) **Payrolls and basic records** - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b) (2) (B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Omnitrans for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a) (3) (i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without

rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) **Apprentices and trainees** - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractors registered program shall be observed. Every apprentice must be paid at not less than the rate

specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) **Compliance with Copeland Act requirements** - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the

subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) **Contract termination: debarment** - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) **Compliance with Davis-Bacon and Related Act requirements** - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) **Disputes concerning labor standards** - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) **Certification of eligibility** - (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

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PRIVACY ACT - 5 U.S.C. 552

Applicability to Contracts

When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts.

Flow Down

The Federal Privacy Act requirements flow down to each third party contractor and their contracts at every tier.

Model Clause/Language

The text of the following clause has not been mandated by statute or specific regulation, but has been developed by FTA.

Contracts Involving Federal Privacy Act Requirements - The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

- (1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
- (2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

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TERMINATION 49 U.S.C. Part 18 FTA Circular 4220.1F

Applicability to Contracts

All contracts (with the exception of contracts with nonprofit organizations and institutions of higher education,) in excess of \$10,000 shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. (For contracts with nonprofit organizations and institutions of higher education the threshold is \$100,000.) In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

Flow Down

The termination requirements flow down to all contracts in excess of \$10,000, with the exception of contracts with nonprofit organizations and institutions of higher learning.

- a. **Termination for Convenience (General Provision)** Omnitrans may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to Omnitrans to be paid the Contractor. If the Contractor has any property in its possession belonging to the Omnitrans, the Contractor will account for the same, and dispose of it in the manner the Omnitrans directs.
- b. **Opportunity to Cure (General Provision)** Omnitrans in its sole discretion may, in the case of a termination for breach or default, allow the Contractor an

appropriately short period of time in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to Omnitrans' satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by Contractor of written notice from Omnitrans setting forth the nature of said breach or default, Omnitrans shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Omnitrans from also pursuing all available remedies against Contractor and its sureties for said breach or default.

- c. **Waiver of Remedies for any Breach** In the event that Omnitrans elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by Omnitrans shall not limit Omnitrans remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.
- d. **Termination for Default (Construction)** If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, Omnitrans may terminate this contract for default. Omnitrans shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, Omnitrans may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to Omnitrans resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Omnitrans in completing the work.

The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if-

1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the Recipient, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. The contractor, within [10] days from the beginning of any delay, notifies Omnitrans in writing of the causes of delay. If in the judgment of Omnitrans, the delay is excusable, the time for completing the work shall be extended. The

judgment of Omnitrans shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of Omnitrans.

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SEISMIC SAFETY REQUIREMENTS 42 U.S.C. 7701 et seq. 49 CFR Part 41

Applicability to Contracts

The Seismic Safety requirements apply only to contracts for the construction of new buildings or additions to existing buildings.

Flow Down

The Seismic Safety requirements flow down from FTA recipients and subrecipients to first tier contractors to assure compliance, with the applicable building standards for Seismic Safety, including the work performed by all subcontractors.

Model Clauses/Language

The regulations do not provide suggested language for third-party contract clauses. The following language has been developed by FTA.

Seismic Safety - The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

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BREACHES AND DISPUTE RESOLUTION 49 CFR Part 18 FTA Circular 4220.1F

Applicability to Contracts

All contracts in excess of \$100,000 shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. This may include provisions for bonding, penalties for late or inadequate performance, retained earnings, liquidated damages or other appropriate measures.

Flow Down

The Breaches and Dispute Resolutions requirements flow down to all tiers.

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the Omnitrans. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to Omnitrans Construction Manager. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of Omnitrans Project Manager shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by Omnitrans, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between Omnitrans and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which Omnitrans is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by Omnitrans, or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

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VETERANS PREFERENCE

Veterans Employment. Contractors working on a capital project funded using FTA assistance shall give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or former employee.

END OF REGULATORY REQUIREMENTS

ATTACHMENT C - PRICING

MNT17-04

(HVAC)

HVAC MAINTENANCE & REPAIR SERVICES COST SUMMARY							
Contract Year			Monthly Flat Fee			Annual Total	
	East Valley	West Valley	"I" Street	Feron Blvd.	SBTC	sbX Corridor	
Base Year 1	\$4,008	\$920	\$522	\$467	\$1,264	\$1,110	\$99,852
Base Year 2	\$4,126	\$945	\$567	\$479	\$1,300	\$1,141	\$102,696
Base Year 3	\$4,250	\$975	\$579	\$488	\$1,334	\$1,170	\$105,528
		Base Years Total:					\$308,076
Option Year 1	\$4,365	\$990	\$589	\$496	\$1,366	\$1,198	\$108,048
Option Year 2	\$4,496	\$1,020	\$607	\$511	\$1,408	\$1,235	\$111,324
	5-Year Total:						\$527,448

(EMS)

EMS MAINTENANCE & REPAIR SERVICES COST SUMMARY						
Contract Year			Monthly Flat Fee			Annual Total
	East Valley	West Valley	"I" Street	Feron Blvd.	SBTC	
Base Year 1	\$731	\$0	\$0	\$0	\$731	\$17,268
Base Year 2	\$753	\$0	\$0	\$0	\$753	\$18,072
Base Year 3	\$774	\$0	\$0	\$0	\$774	\$18,576
	Base Years Total:					\$53,916
Option Year 1	\$785	\$0	\$0	\$0	\$785	\$18,840
Option Year 2	\$809	\$0	\$0	\$0	\$809	\$19,416
5-Year Total:						\$92,172

BILLABLE LABOR RATE(S)			
Function/Trade Classification (e.g., Carpentry/Journeyman)	Hourly Wage: Regular	Hourly Wage: Overtime	Hourly Wage: Holiday
Journeyman	\$135.00	\$202.50	\$270.00

ATTACHMENT D – PREVAILING WAGES

This project is funded under a financial assistance contract by the U.S. Department of Transportation and is subject to all conditions of the Davis-Bacon Act (40 U.S.C. 276a) and the Labor Code of the State of California commencing in Section 1770 et. seq. It is required that all mechanics and laborers employed or working at the site be paid not less than the current basic hourly rates of pay and fringe benefits. Wage schedules are attached or available on the internet at:

www.dir.ca.gov/DLSR/statistics_research.html

and

www.access.gpo.gov/davisbacon/.

Bidders shall utilize the relevant prevailing wage determinations in effect on the first advertisement date of the Invitation for Bids. In the event there are any differences between the minimum wage rates as determined by the United States Secretary of Labor and those determined by the State of California, the highest rate **MUST BE PAID**.

ITEM # _____ F6

DATE: December 7, 2016

TO: Board Chair Sam Spagnolo and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Jennifer M. Sims, Director of Procurement

**SUBJECT: AUTHORIZE AWARD – CONTRACT MNT17-15
PAINT AND CARPET REPLACEMENT AND INSTALLATION**

FORM MOTION

Authorize the CEO/General Manager to award Contract MNT17-15 to Corner Keystone Construction Corp, of Walnut, CA, for the provision of Paint and Carpet Replacement and Installation in the amount of \$148,482, plus a ten percent contingency of \$14,848, for a total not-to-exceed amount of \$163,330.

BACKGROUND

Omnitrans' Capital Improvement Program (CIP) includes the replacement of approximately 3,260 square feet of flooring and interior and exterior painting throughout Omnitrans' "I" Street Paratransit facility.

On July 6, 2016, Omnitrans' Board of Directors authorized the release of Invitation for Bids IFB-MNT17-15. Notices were published in two local newspapers of general circulation and posted on Omnitrans' online bidding system. During the solicitation, the facility was tested for the presence of asbestos containing materials. Asbestos was discovered in the existing floor tiles and abatement was then added to the scope of work through the addendum process. An additional jobwalk was held and extensive outreach conducted to notify potential bidders of the opportunity to submit a bid. Despite staff's efforts, only one (1) bid was received by the October 25, 2016 deadline, which was deemed responsive and responsible.

Award is recommended to Corner Keystone Construction Corporation, in the amount of \$148,482. A detailed cost analysis was performed and the price deemed fair and reasonable. The bid of \$148,482 is \$5,824 less than the Independent Cost Estimate of \$154,306.

A survey of potential bidders revealed that the addenda issued to add the asbestos abatement contributed to their decision not to participate in the solicitation. In accordance with Omnitrans Procurement Procedure 4050.1, Section 5, awarding a contract in response to a single bid is

allowed when it can be determined that the lack of competition was not due to unfavorable terms and conditions or unduly restrictive scopes of work or technical specifications.

Corner Keystone Construction Corp is a California Department General Services certified Small Business (Micro).

FUNDING SOURCE

The cost associated with this procurement is budgeted in the Maintenance Department's Capital Budget as follows:

FUNDING	GRANT #	YEAR	PROJECT NAME	INTERNAL ORDER	AMOUNT
STA	S-1208-012	2015	I Street Paint and Carpet	D1540335L	\$ 163,330
Total					\$ 163,330

_____ Verification of Funding Sources and Availability of Funds.
(Verified and initialed by Finance)

Short Range Transit Plan/Strategic Initiative Supported – This procurement supports Omnitrans' Short Range Transit Plan goal to expand, maintain and improve existing vehicles, facilities, and passenger amenities.

CONCLUSION

By proceeding with this award, Omnitrans will maintain the professional quality, appearance, and safe working conditions of facilities.

PSG:JMS:KT



CONTRACT AGREEMENT

between

Corner Keystone Construction Corporation)
340 S. Lemon Avenue)
Suite 5210)
Walnut, CA 91789)

(hereinafter "CONTRACTOR"))
Telephone: (844) 252-2677)
Email: m@cornerkeystone.com)

And)

Omnitrans)
1700 West Fifth Street)
San Bernardino, CA 92411)
(hereinafter "OMNITRANS"))

CONTRACT DOCUMENTS

CONTRACT NO. MNT17-15

PAINT AND CARPET REPLACEMENT AND INSTALLATION

Contract Amount: \$148,482

Omnitrans Project Manager:

Name: Mark Montgomery)
Title: Facilities Manager)
Telephone: (909) 379-7175)
Fax: (909) 885-2441)
Email: mark.montgomery@omnitrans.org)

Contract Administrator:

Name: Krystal Turner)
Title: Contract Administrator)
Telephone: (909) 379-7202)
Fax: (909) 379-7402)
Email: krystal.turner@omnitrans.org)



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ATTACHMENTS:

ATTACHMENT A – TECHNICAL SPECIFICATIONS

ATTACHMENT B – REGULATORY REQUIREMENTS

ATTACHMENT C – GENERAL PROVISIONS

ATTACHMENT D – PREVAILING WAGES

This Agreement is made and entered into as of this 7th day of December, 2016 by and between Omnitrans (hereinafter referred to as "OMNITRANS") and Corner Keystone Construction Corporation (hereinafter referred to as "CONTRACTOR").

RECITALS

WHEREAS, OMNITRANS is a joint powers authority organized under Sections 6500 et seq. of the California Government Code with power to contract for services described in Attachment A to this Agreement entitled "Attachment A, Scope of Work" (hereinafter referred to as "Work");

WHEREAS, CONTRACTOR has indicated it is qualified to perform such services and (1) has reviewed all the available data furnished by OMNITRANS pertinent to the Work to be rendered; (2) has inspected and reviewed the Work to be rendered; (3) will exercise the ordinary care and skill expected of a practitioner in its profession; and (4) is willing to accept responsibility of performing the Work set forth in this Agreement for the compensation and in accordance with the terms, requirements and conditions herein specified;

NOW, THEREFORE, for the consideration hereinafter stated, the parties agree as follows:

1. TECHNICAL SPECIFICATIONS

- A. CONTRACTOR will perform the Work and related tasks as described in Attachment A, Technical Specifications hereto and is incorporated by reference into and made a part of this Agreement.
- B. This is a non-exclusive Agreement, whereby OMNITRANS may, at its sole discretion, augment or supplant the Work with its own forces or forces of another contractor or entity. CONTRACTOR will cooperate fully with OMNITRANS' staff or other contractor or entity that may be providing similar or the same Work for OMNITRANS.

2. PERIOD OF PERFORMANCE

The term of this Agreement shall be from the date of execution of this Agreement and continue in effect through December 31, 2017, unless terminated as specified in Section 10 and 11 of this Agreement. Omnitrans has no obligation to purchase any specified amount of products/services. All applicable indemnification provisions in this Agreement shall remain in effect following the termination of this Agreement.

3. CONTRACT OPTIONS

- A. Omnitrans will have the unilateral right in the contract by which, for a specified time, Omnitrans may elect to purchase additional services called for by the contract, or may elect to extend the term of the contract. The requirements below apply:
- 1) Any options that were requested by Omnitrans and/or contained in the Contractor's PROPOSAL or offer must have been evaluated in making the contract award prior to exercising any such options.
 - 2) Since Contractor's proposed pricing for the option years and additional services are considered in evaluating the Contractor's original proposal and form the basis for awarding the contract, Contractor shall be bound by the proposal pricing for additional services and/or option years, unless otherwise provided herein.
- B. Omnitrans will provide a minimum of thirty days (30) written notice to the Contractor of Omnitrans' exercise of its option to extend the contract years. Omnitrans may give notice of its exercise of the option for additional services at any time during the term of the contract. The minimum time for the written notice may be waived by mutual agreement.

4. COMPENSATION

For CONTRACTOR's full and complete performance of its obligations under this Agreement, OMNITRANS shall pay CONTRACTOR on a LUMP SUM basis and subject to the maximum cumulative payment obligation.

LUMP SUM.....\$148,482

OMNITRANS' maximum cumulative payment obligation under this Agreement shall not exceed One Hundred Forty Eight Thousand, Four Hundred Eighty Two Dollars (\$148,482), including all amounts payable to CONTRACTOR for all costs, including but not limited to direct labor, other direct costs, subcontracts, indirect costs including, but not limited to, leases, materials, taxes, insurance, and profit.

5. INVOICING AND PAYMENT

- A. CONTRACTOR shall invoice OMNITRANS on a monthly basis no later than the 15th of each month. CONTRACTOR shall furnish information as may be requested by OMNITRANS to substantiate the validity of an invoice.

CONTRACTOR shall submit invoices in duplicate to:

OMNITRANS
1700 West Fifth Street
San Bernardino, CA 92411
Attn: Accounts Payable
Accountspayable@omnitrans.org

A separate invoice shall be used for each shipment. Each invoice shall include, at minimum, the following information:

- Contract number
- Invoice number
- Description of delivery
- Delivery Date
- Total quantity delivered
- Information as requested by OMNITRANS

- B. OMNITRANS shall remit payment within thirty (30) calendar days of approval of the invoices by OMNITRANS' Project Manager.

In the event OMNITRANS should overpay CONTRACTOR, such overpayment shall not be construed as a waiver of OMNITRANS' right to obtain reimbursement for the overpayment. Upon discovering any overpayment, either on its own or upon notice of OMNITRANS, CONTRACTOR shall immediately reimburse OMNITRANS the entire overpayment or, at its sole discretion, OMNITRANS may deduct such overpayment amount from monies due to CONTRACTOR under this Agreement or any other Agreement between OMNITRANS and CONTRACTOR.

C. TITLE

a. Title shall pass to Omnitrans at the time of payment.

b. The title transferred as above shall in each case be good, and free and clear from any and all security interests, liens, and/or other encumbrances.

c. The transfer of title as specified above shall not imply Acceptance by Omnitrans, nor relieve the Contractor from the responsibility for strict compliance with the Contract, including warranty as specified in the Article entitled Warranty of Work, and for any loss of or damage to the Work.

d. The Contractor at its own expense shall promptly execute, acknowledge, and deliver to the Omnitrans proper bills of sale or other written instruments of title in a form as required by Omnitrans; said

instruments shall convey to the Omnitrans' title free and clear of debts, claims, liens, mortgages, taxes, and/or encumbrances.

e. Contractor shall have title to and bear the risk of any loss of or damage to Work purchased hereunder until they are delivered, unloaded, and received by Omnitrans at the FOB Destination specified herein. Contractor's responsibility for loss or damage except for loss or damage resulting from Contractor's negligence, shall cease when title passes to Omnitrans.

6. AUDIT AND INSPECTION OF RECORDS

CONTRACTOR agrees that OMNITRANS or any duly authorized representative shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, time cards, employment records or other records relating to this Agreement. Such material, including all pertinent cost, accounting, financial records, and proprietary data must be kept and maintained by CONTRACTOR for a period of three (3) years after completion of this Agreement unless OMNITRANS' written permission is given to CONTRACTOR to dispose of material prior to this time.

7. NOTIFICATION

All notices hereunder concerning this Agreement and the Work to be performed shall be physically transmitted by courier, overnight, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

To OMNITRANS:

Omnitrans
1700 West Fifth Street
San Bernardino, CA 92411
Attn: Krystal Turner
Contract Administrator

To CONTRACTOR:

Corner Keystone Construction
Corporation
340 S. Lemon Avenue Suite 5210
Walnut, CA 91789
Attn: Man Dy, VP Operations

8. OMNITRANS' AND CONTRACTOR'S REPRESENTATIVES

A. OMNITRANS' Project Manager

Contracting Officer: OMNITRANS' CEO/General Manager or his authorized designee who has authority to execute contracts on behalf of OMNITRANS.

Project Manager: Mark Montgomery, Facilities Manager.

- a. Except as expressly specified in this Agreement, the Contracting Officer may exercise any powers, rights and/or privileges that have been lawfully delegated by OMNITRANS. Nothing in this Agreement should be construed to bind OMNITRANS for acts of its officers, employees, and/or agents that exceed the delegation of authority specified herein.
- b. The Contracting Officer has delegated to the Project Manager certain powers and duties in connection with this Agreement. The Project Manager is the authorized representative of the Contracting Officer for matters related to this Agreement. The Project Manager or his/her designee is empowered to:
 1. Have general oversight of the Work and this Agreement, including the power to enforce compliance with this Agreement.
 2. Reserve the right to remove any portion of the Work from CONTRACTOR which have not been performed to OMNITRANS' satisfaction.
 3. Subject to the review and acceptance by OMNITRANS, negotiate with CONTRACTOR all adjustments pertaining to this Agreement for revision.
- c. In addition to the foregoing, the Project Manager shall have those rights and powers expressly set forth in other sections of this Agreement.

B. Contractor's Key Personnel

The following are CONTRACTOR's key personnel and their associated roles in the Work to be provided:

<u>Name</u>	<u>Role</u>
Man Dy	VP Operations
_____	_____
_____	_____
_____	_____

Any propose/substitution or replacement by Contractor of Contractor's key personnel shall ensure that such person possesses the same or better expertise and experience than the key personnel being substituted or replaced. Omnitrans reserves the right to interview such person to ascertain and verify if such proposed substitution or replacement does in deed possess such expertise and experience.

OMNITRANS awarded this Agreement to CONTRACTOR based on OMNITRANS' confidence and reliance on the expertise of CONTRACTOR's key personnel described above. CONTRACTOR shall not reassign key personnel or assign other personnel to key personnel roles until CONTRACTOR obtains prior written approval from OMNITRANS.

9. DISPUTE RESOLUTION

Any disputes between the successful CONTRACTOR and OMNITRANS relating to the implementation or administration of the Contract shall be resolved in accordance with this section.

- A. The parties shall first attempt to resolve the dispute informally in meetings or communications between proposer and OMNITRANS.
- B. If the dispute remains unresolved fifteen (15) days after it first arises, proposer may request that Omnitrans' CEO/General Manager issue a recommended decision on the matter in dispute. Omnitrans' CEO/General Manager shall issue the recommended decision in writing and provide a copy to proposer.

- C. If the dispute remains unresolved after review by Omnitrans' CEO/General Manager, either party may seek judicial resolution of the dispute in an appropriate Court of the State of California.
- D. Pending final resolution of a dispute under this section, proposer shall proceed diligently with performance in accordance with the Contract and Omnitrans' CEO/General Manager's recommended decision.

10. TERMINATION FOR CONVENIENCE

OMNITRANS may terminate this Agreement in whole or in part for OMNITRANS' convenience. Omnitrans' CEO/General Manager shall terminate this Agreement by a written Notice of Termination to CONTRACTOR specifying the nature, extent, and effective date of the termination. Upon receipt of the notice of termination, CONTRACTOR shall immediately discontinue all Work affected and deliver all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Agreement, whether completed or in process, to Omnitrans' CEO/General Manager. OMNITRANS shall make an equitable adjustment in the Agreement for Work already performed, but shall not allow anticipated profit on unperformed services. Force Majeure shall apply.

11. TERMINATION FOR BREACH OF AGREEMENT

- A. If CONTRACTOR fails to perform any of the provisions of this Agreement or so fails to make progress as to endanger timely performance of this Agreement, OMNITRANS may give CONTRACTOR written notice of such default. If CONTRACTOR does not cure such default or provide a plan to cure such default which is acceptable to OMNITRANS within the time permitted by OMNITRANS, then OMNITRANS may terminate this Agreement due to CONTRACTOR's breach of this Agreement.
- B. If a federal or state proceeding for relief of debtors is undertaken by or against CONTRACTOR, or if CONTRACTOR makes an assignment for the benefit of creditors, then OMNITRANS may immediately terminate this Agreement.
- C. If CONTRACTOR violates Section 28, Compliance with Lobbying Policies, of this Agreement, then OMNITRANS may immediately terminate this Agreement.
- D. In the event OMNITRANS terminates this Agreement as provided in this Section, OMNITRANS may procure, upon such terms and in such manner as OMNITRANS may deem appropriate, Work similar in scope and level of effort to those so terminated, and CONTRACTOR shall be liable to OMNITRANS for all of its costs and damages, including, but not limited, any excess costs for such Work.

- E. All finished or unfinished documents and materials produced or procured under this Agreement shall become OMNITRANS' property upon date of such termination.
- F. If, after notice of termination of this Agreement under the provisions of this Section, it is determined for any reason that CONTRACTOR was not in default under the provisions of this Section, or that the default was excusable under the terms of this Agreement, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Section 10, Termination for Convenience.
- G. The rights and remedies of OMNITRANS provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

12. ASSIGNMENT

This Agreement, any interest herein or claim hereunder, may not be assigned by CONTRACTOR either voluntarily or by operation of law, nor may all or any part of this Agreement be subcontracted by CONTRACTOR, without the prior written consent of OMNITRANS. Consent by OMNITRANS shall not be deemed to relieve CONTRACTOR of its obligations to comply fully with all terms and conditions of this Agreement.

13. SUBCONTRACTING

OMNITRANS hereby consents to CONTRACTOR's subcontracting of portions of the Work to the parties identified below for the functions described in CONTRACTOR's proposal. CONTRACTOR shall include in each subcontract agreement the stipulation that CONTRACTOR, not OMNITRANS, is solely responsible for payment to the subcontractor for all amounts owing and that the subcontractor shall have no claim, and shall take no action against OMNITRANS, Member Agencies or officers, directors, employees or sureties thereof for nonpayment by CONTRACTOR.

Subcontractor's Name and Address	Work to Be Performed
P.W. Stephens Environmental, Inc. 15201 Pipeline Lane Suite B Huntington Beach, CA 92649	Asbestos Abatement
Mike's Custom Flooring 1351 Park Avenue Suite 102 Redlands, CA 92373	Flooring

14. INDEPENDENT CONTRACTOR

CONTRACTOR's relationship to OMNITRANS in the performance of this Agreement is that of an independent Contractor. CONTRACTOR's personnel performing Work under this Agreement shall at all times be under CONTRACTOR's exclusive direction and control and shall be employees of CONTRACTOR and not employees of OMNITRANS. CONTRACTOR shall pay all wages, salaries and other amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.

15. INSURANCE

A. INSURANCE REQUIREMENTS

1) General Requirements for Contractor

- a. Without limiting or diminishing the Contractor's obligation to indemnify or hold Omnitrans harmless, Contractor shall procure, prior to commencement of the services required under this contract and maintain for the duration of the contract at its own expense, insurance of the kinds and in the amounts as indicated below;
- b. Provide Omnitrans with valid original certificates of insurance and endorsements showing Omnitrans as an additional insured.

2) Deductibles or Self-Insured Retention (SIR)

SIR must be declared to and approved by Omnitrans. At the option of Omnitrans, either: the insurer shall reduce or eliminate such deductibles or SIR or Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

3) Other Insurance Provisions

a. Commercial General Liability and Automobile Liability

Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed operations liability, personal and advertising injury covering claims which may arise from or out of Contractor's performance of its obligations hereunder and if Contractor's vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then Contractor shall maintain liability insurance for all owned, non-owned or hired vehicles so used. Policy shall name Omnitrans, its officers, officials, employees, agents and volunteers as additional insured as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor;

premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations of the scope of protection afforded Omnitrans, its officers, officials, employees, agents, and volunteers.

1. For any claims related to this project, Contractor's insurance coverage shall be primary insurance as respects Omnitrans, its officers, officials, employees, agents, and volunteers. Any insurance and/or deductibles and/or self-insured retentions or self-insured programs maintained by Omnitrans, its officers, officials, employees, agents, and volunteers shall be excess of Contractor's insurance and shall not be construed as contributory.
2. Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to Omnitrans.

b. Workers' Compensation

If the Contractor has employees as defined by the State of California, the Contractor shall maintain statutory Workers' compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of Omnitrans and, if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement.

c. Care, Custody, and Control

Contractor shall insure any Omnitrans property while under its Care, Custody, and Control according to the requirements listed in the insurance coverage required.

4) Acceptability of Insurers

Insurance companies shall be State of California admitted or approved and have a current **A.M. Best's** rating of no less than **A:VIII**.

5) Verification of Coverage

- a. Contractor shall furnish Omnitrans with original endorsements affecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All insurance certificates and endorsements

are to be received and approved by Omnitrans before work commences.

- b. As an alternative, Contractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.
- c. In lieu of purchasing insurance and providing original endorsements and or certificates of insurance, the Contractor may provide proof of self-insurance; such proof must be to the satisfaction of Omnitrans.

6) Subcontractors

Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

7) Notification of Terminated Insurance

Insurance shall not be terminated or expire without thirty (30) days written notice, and are required to be maintained in force until completion of the contract.

B. MINIMUM INSURANCE COVERAGE

- 1) ☒ **Commercial General Liability including Products/Completed Operations:** \$1,000,000; per occurrence for bodily and property damage liability and \$2,000,000 aggregate; *Omnitrans named and endorsed as an Additional Insured.*
- 2) ☒ **Automobile Liability:** \$1,000,000; per occurrence for bodily and property damage liability and aggregate; *Omnitrans named and endorsed as an Additional Insured.*
- 3) ☐ **Errors and Omissions Liability:** \$1,000,000; combined single limit bodily and property damage liability per occurrence and \$3,000,000 aggregate or,
- 4) ☐ **Professional Liability:** \$1,000,000; per occurrence and aggregate.
- 5) ☒ **Workers' Compensation:** statutory limits or,
- 6) ☐ **Self Insurance Program:** a State Approved program in an amount and form that meets all applicable requirements of the Labor Code of the State of California.
- 7) ☒ **Employer's Liability:** \$1,000,000; per occurrence.
- 8) ☐ **Environmental Liability:** \$1,000,000; per occurrence and aggregate; *Omnitrans named and endorsed as an Additional Insured.*

- 9) ☐ **Umbrella Policy:** \$4,000,000; per occurrence and aggregate Additional coverage for the above policies, *Omnitrans Additional Insured*.
- 10) ☐ All drivers making deliveries of products specified on this solicitation shall have Hazardous Materials Endorsements on their Commercial Drivers License, and such other Endorsements as may be required by relevant laws and/or regulations.

16. INDEMNITY

CONTRACTOR shall indemnify, defend and hold harmless OMNITRANS, and its member agencies, and their officers, directors, employees and agents from and against any and all liability, expense (including, but not limited to, defense costs and attorneys' fees), claims, causes of action, and lawsuits for damages of any nature whatsoever, including, but not limited to, bodily injury, death, personal injury or property damage (including property of CONTRACTOR) arising from or connected with any alleged act and/or omission of CONTRACTOR, its officers, directors, employees, agents, Subcontractors or suppliers. This indemnity shall survive termination or expiration of this Agreement and/or final payment thereunder.

17. REVISIONS IN SCOPE OF WORK

By written notice or order, OMNITRANS may, from time to time, order work suspension or make changes to this Agreement. Changes in the Work shall be mutually agreed to and incorporated into an amendment to this Agreement. Upon execution of an amendment, CONTRACTOR shall perform the Work, as amended.

18. RIGHTS IN TECHNICAL DATA

- A. No material or technical data prepared by CONTRACTOR under this Agreement is to be released by CONTRACTOR to any other person or entity except as necessary for the performance of the Work. All press releases or information concerning the Work that might appear in any publication or dissemination, including but not limited to, newspapers, magazines, and electronic media, shall first be authorized in writing by OMNITRANS.
- B. The originals of all letters, documents, reports and other products and data produced under this Agreement shall become the property of OMNITRANS without restriction or limitation on their use and shall be made available upon request to OMNITRANS at any time. Original copies of such shall be delivered to OMNITRANS upon completion of the Work or termination of the Work. CONTRACTOR shall be permitted to retain copies of such items for the furtherance of its technical proficiency; however, publication of this material is subject to the prior written approval

of OMNITRANS. The provisions of this paragraph shall survive termination or expiration of this Agreement and/or final payment thereunder.

19. OWNERSHIP OF REPORTS AND DOCUMENTS

The originals of all letters, documents, reports and other products and data produced under this Agreement shall be delivered to, and become the sole and exclusive property of OMNITRANS. Copies may be made for CONTRACTOR's records, but shall not be furnished to others without prior written authorization from OMNITRANS. Such deliverables shall be deemed works made for hire, and all rights in copyright therein shall be retained by OMNITRANS.

20. OWNERSHIP RIGHTS

- A. In the event OMNITRANS rightfully obtains copies of Proprietary Data under the terms of the separate License Agreement and Escrow Agreement that govern rights in Documentation, Software and Intellectual Property created and/or developed by Contractor, its Third Party Software Contractors and its Suppliers as part of the Project, any derivative works and associated documentation created by or on behalf of OMNITRANS by Permitted Programmers (as defined in the License Agreement) shall be the sole and exclusive property of OMNITRANS (collectively, "OMNITRANS Intellectual Property"), and OMNITRANS may use, disclose and exercise dominion and full rights of ownership, in any manner in OMNITRANS Intellectual Property in connection with the use, operation and maintenance of a transportation system administered by OMNITRANS. No use of OMNITRANS Intellectual Property shall be made for any purpose other than in conjunction with a transportation system administered by CONTRACTOR, and OMNITRANS shall not sell, lease, rent, give away or otherwise disclose any OMNITRANS Intellectual Property to any outside third party other than Permitted Programmers. To the extent there may be any question of rights of ownership or use in any OMNITRANS Intellectual Property, Contractor shall require all of its subcontractors and suppliers (including without limitation its Third Party Software Contractors) to assign to OMNITRANS, all worldwide right, title and interest in and to all OMNITRANS Intellectual Property in a manner consistent with the foregoing terms of this paragraph. Contractor shall execute any documents as OMNITRANS may from time to time reasonably request to effectuate the terms of this paragraph.
- B. All documentation and Software which predates this Contract and which otherwise owned by Contractor or its Third Party Software Contractors, and all Documentation and Software which is created by Contractor or its Third Party Software Contractors shall be Licensed Software or Licensed Documentation, as appropriate. All Licensed Software and Licensed

Documentation shall be governed by the License Agreement by and between the parties of event date herewith.

21. WORK FOR HIRE

Any work created or produced as a part of this Agreement that may be defined under Section 101, Title 17, USC will be considered “work for hire” as it pertains to ownership rights. CONTRACTOR, by his/her endorsement hereon agrees that all rights to any work(s) created or produced are waived, and that ownership rests with OMNITRANS. CONTRACTOR further agrees to ensure transfer of all rights to such work(s), as defined under federal copyright law, that may be created or produced under this Agreement by its suppliers, contractors or subcontractors.

22. SUBMITTAL OF CLAIMS BY CONTRACTOR

CONTRACTOR shall file any and all claims with OMNITRANS’ Project Manager in writing within thirty (30) days of the event or occurrence giving rise to the claim. The claim shall be in sufficient detail to enable OMNITRANS to ascertain the claim’s basis and amount, and shall describe the date, place and other pertinent circumstances of the event or occurrence giving rise to the claim and the indebtedness, obligation, injury, loss or damages allegedly incurred by CONTRACTOR.

Even though a claim may be filed and/or in review by OMNITRANS, CONTRACTOR shall continue to perform in accordance with this Agreement.

23. EQUAL OPPORTUNITY

CONTRACTOR shall not discriminate against, or grant preferential treatment to, any individual or group, or any employee or applicant for employment because of race, age, religion, color, ethnicity, sex, national origin, ancestry, physical disability, mental disability, political affiliation, sexual orientation, marital status or other status protected by law. CONTRACTOR shall take action to ensure that applicants and employees are treated without regard to the above.

24. STANDARD OF PERFORMANCE

A. CONTRACTOR shall perform and exercise, and require its subcontractors to perform and exercise due professional care and competence in the performance of the Work in accordance with the requirements of this Agreement. CONTRACTOR shall be responsible for the professional quality, technical accuracy, completeness and coordination of the Work, it being understood that OMNITRANS will be relying upon such professional quality, accuracy, completeness and coordination in utilizing the Work. The foregoing obligations and standards shall constitute the “Standard of Performance” for purposes of this Agreement. The provisions of this

paragraph shall survive termination or expiration of this Agreement and/or final payment thereunder.

- B. All workers shall have sufficient skill and experience to perform the Work assigned to them. OMNITRANS shall have the right, at its sole discretion, to require the immediate removal of CONTRACTOR's personnel at any level assigned to the performance of the Work at no additional fee or cost to OMNITRANS, if OMNITRANS considers such removal in its best interests and requests such removal in writing and such request is not done for illegal reasons. Further, an employee who is removed from performing Work under this Agreement under this Article shall not be re-assigned to perform Work in any other capacity under this Agreement without OMNITRANS' prior written approval.

25. NOTIFICATION OF EMPLOYMENT OF OMNITRANS BOARD MEMBERS/ALTERNATES AND EMPLOYEES

To ensure compliance with OMNITRANS' Ethics Policy, CONTRACTOR shall provide written notice to OMNITRANS disclosing the identity of any individual who CONTRACTOR desires to employ or retain under a contract, and who (1) presently serves as a Board Member/Alternate or an employee of OMNITRANS, or (2) served as a Board Member/Alternate or an employee of OMNITRANS within the previous 12 months of the date of the proposed employment or retention by CONTRACTOR. CONTRACTOR's written notice shall indicate whether the individual will be an officer, principal or shareholder of the entity and/or will participate in the performance of this Agreement.

26. DISQUALIFYING POLITICAL CONTRIBUTIONS

In the event of a proposed amendment to this Agreement, CONTRACTOR shall provide prior to the execution of such amendment, a written statement disclosing any contribution(s) of \$250 or more made by CONTRACTOR or its subcontractor(s) to Omnitrans Board Members/Alternates or employees within the preceding twelve (12) months of the date of the proposed amendment. Applicable contributions include those made by any agent/person/entity on behalf of CONTRACTOR or subcontractor(s).

27. COMPLIANCE WITH LAW

CONTRACTOR shall familiarize itself with and perform the Work required under this Agreement in conformity with requirements and standards of OMNITRANS, municipal and public agencies, public and private utilities, special districts, and railroad agencies whose facilities and work may be affected by Work under this Agreement. CONTRACTOR shall also comply with all Federal, state and local laws and ordinances.

28. COMPLIANCE WITH LOBBYING POLICIES

- A. CONTRACTOR agrees that if it is a Lobbyist Employer or if it has retained a Lobbying Firm or Lobbyist, as such terms are defined by OMNITRANS in its Ethics Policy, it shall comply or ensure that its Lobbying Firm and Lobbyist complies with OMNITRANS' Ethics Policy.
- B. If CONTRACTOR (Lobbyist Employer) or its Lobbying Firm or Lobbyist fails to comply, in whole or in part, with OMNITRANS' Ethics Policy, such failure shall be considered a material breach of this Agreement and OMNITRANS shall have the right to immediately terminate or suspend this Agreement.

29. PUBLIC RECORDS ACT

- A. All records, documents, drawings, plans, specifications and other material relating to conduct of OMNITRANS' business, including materials submitted by CONTRACTOR in its proposal and during the course of performing the Work under this Agreement, shall become the exclusive property of OMNITRANS and may be deemed public records. Said materials may be subject to the provisions of the California Public Records Act. OMNITRANS' use and disclosure of its records are governed by this Act.
- B. OMNITRANS will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act, including interpretations of the Act or the definitions of trade secret, confidential or proprietary. OMNITRANS will accept materials clearly and prominently labeled "TRADE SECRET" or "CONFIDENTIAL" or "PROPRIETARY" as determined by CONTRACTOR. OMNITRANS will endeavor to notify CONTRACTOR of any request of the disclosure of such materials. Under no circumstances, however, will OMNITRANS be liable or responsible for the disclosure of any labeled materials whether the disclosure is required by law or a court order or occurs through inadvertence, mistake or negligence on the part of OMNITRANS or its officers, employees and/or contractors.
- C. In the event of litigation concerning the disclosure of any material submitted by CONTRACTOR, OMNITRANS' sole involvement will be as a stake holder, retaining the material until otherwise ordered by a court. CONTRACTOR, at its sole expense and risk, shall be responsible for prosecuting or defending any action concerning the materials, and shall defend, indemnify and hold OMNITRANS harmless from all costs and expenses, including attorneys' fees, in connection with such action.

30. WAIVER/INVALIDITY

No waiver of a breach of any provision of this Agreement by either party shall constitute a waiver of any other breach of the provision, or of any other breach of the provision of the Agreement. Failure of either party to enforce any provision of this Agreement at any time shall not be construed as a waiver of that provision.

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

31. FORCE MAJEURE

Performance of each and all CONTRACTOR's and OMNITRANS' covenants herein shall be subject to such delays as may occur without CONTRACTOR's or OMNITRANS' fault from acts of God, strikes, riots, or from other similar causes beyond CONTRACTOR's or OMNITRANS' control.

32. CONFIDENTIALITY

CONTRACTOR agrees that for and during the entire term of this Agreement, any information, data, figures, records, findings and the like received or generated by CONTRACTOR in the performance of this Agreement, shall be considered and kept as the private and privileged records of OMNITRANS and will not be divulged to any person, firm, corporation, or other entity except on the direct prior written authorization of OMNITRANS. Further, upon expiration or termination of this Agreement for any reason, CONTRACTOR agrees that it will continue to treat as private and privileged any information, data, figures, records, findings and the like, and will not release any such information to any person, firm, corporation or other entity, either by statement, deposition, or as a witness, except upon direct prior written authority of OMNITRANS.

33. CONTRACTOR'S INTERACTION WITH THE MEDIA AND THE PUBLIC

- A. OMNITRANS shall review and approve in writing all OMNITRANS related copy proposed to be used by CONTRACTOR for advertising or public relations purposes prior to publication. CONTRACTOR shall not allow OMNITRANS related copy to be published in its advertisements and public relations programs prior to receiving such approval. CONTRACTOR shall ensure that all published information is factual and that it does not in any way imply that OMNITRANS endorses CONTRACTOR's firm, service, and/or product.
- B. CONTRACTOR shall refer all inquiries from the news media to OMNITRANS, and shall comply with the procedures of OMNITRANS' Public Affairs staff regarding statements to the media relating to this Agreement or the Work.

- C. If CONTRACTOR receives a complaint from a citizen or the community, CONTRACTOR shall inform OMNITRANS as soon as possible and inform OMNITRANS of any action taken to alleviate the situation.
- D. The provisions of this Article shall survive the termination or expiration of this Agreement.

34. GOVERNING LAW

The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of California, and the proper venue of any action brought hereunder is and shall be the County of San Bernardino, California.

35. MODIFICATIONS TO AGREEMENT

Unless specified otherwise in the Agreement, this Agreement may only be modified by written mutual consent evidenced by signatures of representatives authorized to enter into and modify the Agreement. In order to be effective, amendments may require prior approval by OMNITRANS' Board of Directors, and in all instances require prior signature of an authorized representative of OMNITRANS.

36. LICENSING, PERMITS AND INSPECTION COSTS

- A. The CONTRACTOR warrants that it has all necessary licenses and permits required by the laws of the United States, State of California, and the County of San Bernardino, the Local Jurisdictions, and all other appropriate governmental agencies, and agrees to maintain these licenses and permits in effect for the duration of the Agreement. Further, FIRM warrants that its employees, agents, and contractors and subcontractors shall conduct themselves in compliance with such laws and licensure requirements including, without limitation, compliance with laws applicable to nondiscrimination, sexual harassment and ethical behavior throughout the duration of this Agreement. CONTRACTOR further warrants that it shall not retain or employ an unlicensed subcontractor to perform work on this Project. CONTRACTOR shall notify OMNITRANS immediately and in writing of its employees', agents', contractors' or subcontractors' inability to obtain or maintain, irrespective of the pendency of any appeal, any such licenses, permits, approvals, certificates, waivers, exemptions. Such inability shall be cause for termination of this Agreement.
- B. CONTRACTOR shall procure all permits and licenses; pay all charges, assessments and fees, as may be required by the ordinances and regulations of the public agencies having jurisdiction over the areas in which the work is located, and shall comply with all the terms and

conditions thereof and with all lawful orders and regulations of each such public agency relating to construction operations under the jurisdiction of such agency.

37. PRECEDENCE

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement, and any and all of its Amendments, Appendices, Exhibits and Attachments; (2) provisions of IFB-MNT17-15 and any and all of its Addenda, Appendices, Exhibits and Attachments; and (3) CONTRACTOR's proposal dated October 25, 2016.

38. ENTIRE AGREEMENT

This Agreement, and any attachments or documents incorporated herein by inclusion or by reference, constitutes the complete and entire agreement between OMNITRANS and CONTRACTOR and supersedes any prior representations, understandings, communications, commitments, agreements or proposals, oral or written.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date shown below, and effective on the date first hereinabove written.

OMNITRANS

CORNER KEYSTONE
CONSTRUCTION CORPORATION

P. SCOTT GRAHAM
CEO/General Manager

MAN DY
VP Operations

DATE

Federal Tax I.D. No. 46-5167916

DP____
CM____

ATTACHMENT A - SCOPE OF WORK

MNT17-15

PAINT AND CARPET REPLACEMENT AND
INSTALLATION

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I. GENERAL REQUIREMENTS

1. Summary of Work

The project scope of work shall be comprised of asbestos abatement of flooring products that have been identified as asbestos containing materials (ACM), interior and exterior painting and flooring replacement. (See section X. Exhibits for square footages of areas to be painted, and new flooring to be installed).

- A.** The first phase of the project shall be the asbestos abatement activities (See Exhibit 4-Asbestos Survey Report for areas to be abated). The awarded contractor shall be responsible for the following: (See Scope of Work Part 1 for full details)
 - i.** Hiring of licensed and certified asbestos abatement contractor.
 - ii.** Rental of a “ground level office” approximately 8ft wide X 40ft length with finished interior, air conditioning and heating, electrical outlets, and phone & data access See attached Exhibit 6 – Ground Level Office Specifications.
 - iii.** Coordinate with local utility and provide temporary power to meet requirements of rental office. Connect office to temporary power source.
 - iv.** Provide three (3) portable “Deluxe” restrooms, and one (1) “ADA Compliant Wheelchair” restroom for the use of MV Transit personnel and one (1) standard portable restroom for construction personnel use. (See Exhibit 5 – Deluxe Portable Toilet Features).
 - v.** Removal and storage of all Administration building furniture and furnishings during construction activities. Omnitrans shall make space available for contractor to place temporary storage container(s) needed to house furniture and furnishings slated to be moved back into Administration building. Contractor shall provide the temporary protected storage container(s).
 - vi.** Contractor shall also coordinate with local refuse department a 40 foot roll off bin for any furniture or furnishings that Omnitrans deems to be disposed of and not be moved back into the Administration building.
 - vii.** Upon completion of all construction activities, the contractor shall be responsible for moving of furniture and furnishings back into the Administration building from temporary storage container(s).
 - viii.** Contractor shall also provide furniture dis-assembly, moving, and re-assembly of surplus office furniture from an offsite facility located within two (2) miles of the I-Street facility. The offsite facility is a multi-story building equipped with an elevator, and the surplus furniture is located on the 2nd floor (only street parking is available for the moving vehicle(s). Omnitrans shall provide a furniture layout diagram of where furniture is to be placed at the I-Street facility. (See Exhibit 7 – Offsite Furniture to be moved).

- B.** The second phase of the project shall be the re-painting of the interior/exterior surfaces, and the work shall be comprised of the following tasks: (See Scope of Work Part 2 for full details).
- i.** Patching, prepping, and painting of all interior and exterior areas as shown on exhibits.
 - ii.** Removal of a “wet bar/sink” and paneling from north wall of room #115. Water and waste lines to be capped off and a pipe chase to be framed out and dry walled. An access hatch is to be installed in new pipe chase for future access to water and waste lines. All areas where new drywall is installed or paneling removed will need to be textured primed and painted to match surrounding area. The wall material behind the paneling to be removed is plaster.
 - iii.** A fire sprinkler head will need to be re-located in the area where the new pipe chase is built to ensure proper clearance.
 - iv.** Existing ceiling tile throughout building to be removed and disposed of, existing ceiling tile grid to be painted and new ceiling tile installed.
- C.** The third phase of the project shall be the installation of new flooring throughout the Administration building. (See Scope of Work Parts 3, 4, 5, 6 & 7 for full details)
- i.** Floor prep activities.
 - ii.** Installation of carpet tile in areas show in exhibits.
 - iii.** Installation of luxury vinyl tile plank flooring in areas show in exhibits.
 - iv.** Installation of vinyl sheet flooring in areas show in exhibits.
 - v.** Installation of rubber cove base and transitions.
 - vi.** Any movement of furniture that is not part of phase one asbestos abatement scope.

2. Work Site Locations

Access Paratransit Facility (City of San Bernardino)

Located at 234 S. I Street, San Bernardino, CA 92410.

Administrative Offices and Maintenance Facility

- A.** Carpet replacement of the Administration Building.
- B.** Tile replacement in the following areas of the Administration Building:
Assembly/Window Dispatch, Vault, Hallways, Kitchen, Dispatch and Restrooms.
See Exhibit 1 – I Street Approximate Square Footage floor plans for approximate square footage & type of carpet/tile.

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- C. Base board replacement in the Administration Building.
- D. Paint Administration Building Interior.
- E. Paint Maintenance Training Facility Room Interior.
- F. Paint Administration Building and Maintenance Facility Exterior.
- G. Asbestos Abatement

3. Schedule of Work

- A. Contractor shall anticipate regularly performing the work in the evenings between the hours of 6:00 a.m. – 6:00 p.m. Hours outside of these times shall be arranged at least 48 hours in advance and approved by the project manager.
- B. Prior to commencement of work, Contractor shall submit a work schedule to Project Manager for review. Schedule must be mutually agreeable before any work starts.
- C. Contractor shall make appropriate provisions to minimize noise, dust, centralize work, storage and staging areas.
- D. Contractor shall ensure that all of its subordinate staff, and subordinate contractor staff, remain within assigned work areas so as not to encroach upon the owners' right to peaceably conduct business during the performance of this project.

II. SCOPE OF WORK PART 1 – ASBESTOS ABATEMENT

1. Work Site Location

Access Paratransit Facility (City of San Bernardino)

Located at 234 S. I Street, San Bernardino, CA 92410

Administrative Offices and Maintenance Facility

The contractor's responsibilities will include the following key components:

- A. Asbestos Abatement
- B. Notifications to all appropriate agencies
- C. All permits, fees and other incidentals required to carry out the specified work
- D. Inspections, if required

2. Description of Work

- A. The scope of work for this project includes the removal of all of the asbestos-containing flooring materials to facilitate the replacement of the floorings throughout the Access Paratransit Facility. The flooring removal may be carried out in various phases to lessen the relocation burden.
- B. The mastic throughout as well as some of the original floorings are classified as asbestos-containing materials (ACM) at this facility.

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3. Scope of Work

- A.** Contractor shall supply the necessary materials, equipment, transportation, workers, supervisors, insurance and expertise to perform the services.
- B.** Contractor shall base pricing on his own take-off quantities required to perform the work. No change orders shall be allowed on the basis of inaccurate quantities.
- C.** Contractor shall perform all work in compliance with the most recent edition of all applicable federal, state, and local regulations, standards and codes governing demolition, asbestos abatement, transport, and disposal of asbestos containing/contaminated materials.
- D.** Requirements include obtaining permits, licenses, inspections, releases and similar documentation, as well as payments, statements and similar requirements associated with codes, regulations, and standards.
- E.** In addition to the above, Contractor shall perform all other work as required by the Specifications, job walk, and addenda.
- F.** Contractors must be certified and registered in accordance with California Business & Professions Code §7058.5 and California Labor Code §6501.5 to perform asbestos-related work.
- G.** In accordance with the provisions of §3700 of the Labor Code, Contractor shall secure the payment of compensation to his employees. Contractor shall sign the following certificate prior to performing the work under this contract: "I am aware of the provisions of Section §3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this contract." The form of such certificate is included as part of the contract documents.
- H.** All demolition required to carry out the abatement is the responsibility of the abatement contractor. Patching of surfaces is not required.
- I.** Please refer to the original Survey Report (Exhibit 4) for further details on the survey process and results.

4. Submittals

- A.** Submit copies of written notification to the appropriate regulatory agencies.
- B.** Submit proof that required permits, site location and arrangements for transport and disposal of hazardous waste materials have been made.
- C.** Submit proof of legal right to use patented equipment or processes.
- D.** Submit manufacturer's certification that High-Efficiency Particulate Air (HEPA) vacuums, differential pressure air filtration devices, and other local exhaust ventilation equipment conform to American National Standards Institute (ANSI) Z9.2-79.

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- E.** Submit a construction schedule indicating milestones and dates of completion for each phase of the work.
- F.** Submit documentation that Contractor's employees, including foreman, supervisor, and any other company personnel or agents who may be exposed to airborne asbestos fibers or who may be responsible for any aspects of abatement activities, have received training as required by CFR – Title 49, Part 1926, Safety and Health Regulations for Construction, Subpart Z – Toxic and Hazardous Substance §1926.1101 Asbestos.
- G.** Submit documentation from Physician that all employees or agents who may be exposed to airborne asbestos fibers in excess of background levels have received medical monitoring to determine whether they are physically capable of working while wearing the respirator required without suffering adverse health effects. Contractor shall be aware of and provide information to the examining physician about unusual conditions in the workplace environment (e.g. high temperatures, humidity, chemical contaminants) that may impact on the employee's ability to perform work activities.
- H.** Submit documentation of respirator fit-testing for all Contractor employees and agents who must enter the work area. This fit-testing shall be in accordance with qualitative procedures as required by OSHA regulations or be quantitative in nature.
- I.** Submit a project specific work plan.
- J.** Submit an emergency preparedness plan.
- K.** Ongoing Submittals: During abatement activities, Contractor shall submit to Owner's Representative documentation that includes, without limitation, the following:
 - i.** Submit copies of the work area entry/exit log book. Log book must record name, affiliation, time in, and time out for each entry into the work area.
 - ii.** Submit copies of logs documenting filter changes on respirators, HEPA vacuums, differential pressure air filtration devices, water filtration device, and other engineering controls.
 - iii.** Submit copies of Safety Data Sheets (SDS) for solvents, encapsulants, wetting agents and replacement materials, as necessary.
 - iv.** Submit results of all required OSHA air monitoring. Results shall be available prior to the start of the following shift and within 24 hours of completion of the last shift.
 - v.** Submit copies of all accident/incident reports where injury or damage has occurred on or to the Owner's property.
 - vi.** Submit copies of all transport manifests, trip tickets and disposal receipts for all hazardous waste materials removed from the work area within 24 hours of the transport.

5. Technical Specifications

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- A.** All work shall be performed in accordance with the guidelines of all prevailing local and state regulations including but not limited to local air quality management authority requirements (South Coast Air Quality (SCAQMD) Rule 1403. Asbestos emissions from demolition/renovation activities). The Contractor and all its employees shall be licensed certified and trained to perform work in California.
- B.** Contractor is required to provide written legal notification of its intent to perform asbestos related work to all regulatory agencies as required. Contractor shall pay permit fees required for the work.
- C.** Contractor shall be required to furnish and maintain on-site, as a minimum, all legally required job postings include but not limited to: evidence of licensure and certificates for the Contractor and its employees. A daily supervisor's log maintained by the on-site supervisor, daily worker sign-in logs, all workers current asbestos and lead related training certificates, medical clearance, respirator fit testing records, and notifications sent to regulatory agencies. In addition, Contractor shall be required to provide all personal air monitoring results to the Omnitrans and Omnitrans' representative, either within five (5) working days from the time the samples are collected or the required statutory time, whichever is less.
- D.** It is the responsibility of the Contractor to provide respiratory protection and personal protective equipment for their employees in accordance with all current regulations.
- E.** All asbestos abatement shall be conducted within regulated areas. The regulated area shall be demarcated to minimize the number of persons within the area and to protect persons outside the area from exposure to airborne asbestos. Where critical barriers or negative pressure enclosures are used, they shall demarcate the regulated area. Access to regulated areas shall be limited to authorized persons. Contractor shall control access to regulated areas, ensure that only authorized personnel enter, and verify that Contractor required medical surveillance, training and respiratory protection program requirements are met prior to allowing entrance.
- F.** Warning signs and tape printed in English and Spanish shall be provided at the regulated boundaries and entrances to regulated areas. Contractor shall ensure that all personnel working in areas contiguous to regulated areas comprehend the warning signs. Signs shall be located to allow personnel to read the signs and take

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the necessary protective steps required before entering the area. The Master Specifications detail the procedures for completing the abatement. The following short summaries are detailed to eliminate potential confusion for classification of the affected materials and methods.

- i. **Floor Tiles:** The removal of floor tiles is considered OSHA Class II work. Vinyl floor tile (VFT) removal can be removed with critical barriers and splashguards in place. However, removal of VFT in poor conditions or removed mechanically, must be removed under a Negative Pressure Enclosure NPE system, with wet removal techniques. Contractor shall approve such work before it commences. VFT's shall be removed by manual methods, which do not create dust. Do not sand, grind, bead blast, mechanically chip, or abrade floor tiles, during abatement. Removal of floor tiles by mechanical means will be conducted in accordance with applicable federal, state, and local requirements, including but not limited to requiring the construction of a NPE system; SCAQMD notification of removal as a Regulated Asbestos Containing Material (RACM); and clearance air sampling for areas planned for re-occupancy. NPE shall comply with the requirements.
- ii. **Flooring Mastics:** The removal of flooring mastics is considered OSHA Class II work. Flooring mastics shall be removed only by wet methods, using approved solvents. Please note that mastic removal chemicals may require special respiratory protection and, thus, this protection must be implemented along with the proper notification and training.

If the mastic must be removed using chemicals and/or mechanical devices, then the material must be removed as described in the previous paragraph; under an NPE. Contractor shall be notified if mechanical bead blasting or mechanical floor buffers will be used for the removal of the mastic/glue. Federal, State, regional and local regulatory agency regulations that restrict the use of mechanical bead blasting and mechanical buffer equipment including indicating appropriate containment for these activities shall be obeyed. In the event that the use of unauthorized abatement methods, equipment, or containments results in a notice of violation issued by a regulatory agency, the contractor shall be responsible for costs associated with the payment of the fine, and other legal costs that may arise as a result of the notice of violation. These costs are not to be cause for a change order. It is assumed that the Contractors for abatement of materials are knowledgeable and proficient in regulations applicable to

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their industry. All materials removed shall be wrapped in two layers of six-millimeter plastic or double bagged and sealed with tape. Assure that all bundles and bags are labeled and disposed of complying with waste disposal instructions for asbestos containing waste.

III. SCOPE OF WORK PART 2 – EXECUTION INTERIOR/EXTERIOR PAINT

1. General Description

Work consists of re-painting of interior and exterior surfaces such as drywall, plaster, concrete masonry unit (CMU), concrete, and metal. (See 4. Scope of Work below for complete details)

2. General Requirements

- A.** Contractor to field verify all areas for appropriate square footages, linear feet, etc.
- B.** All work is to comply with all applicable state and city code requirements.

3. Facility/Location

Omnitrans' I-Street Paratransit Facility located at 234 South I-Street, San Bernardino, CA 92410.

4. Scope of Work

Work to be done consists of furnishing all paints, supplies, labor, tools, equipment, and scaffolding to perform a complete and thorough job of repainting designated interior and exterior surfaces. In preparing of walls for application of paint, all existing base covering shall be removed in order to allow walls to be prepped to floor surface. Each item or area in these specifications is described by the most commonly used name and the Contractor shall familiarize himself with the areas that are to be painted.

A. *INTERIOR WORK

- i.** Patch all drywall and all doors before painting
- ii.** Paint all interior doors and jambs; 24 x (3'x7') x 2 = 1008 sq. ft.
- iii.** Remove all ceiling tile in Administration building (except IT server room), paint grid and replace ceiling tile with new tile. Current tile type is USG Radar R2310.

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- iv. Removal of a “wet bar/sink” and paneling from north wall of room #115. Water and waste lines to be capped off and a pipe chase to be built using wood studs and 5/8” dry wall. A fire sprinkler head will need to be re-located in the area where the new pipe chase is built to ensure proper clearance. A 14”x14” steel access hatch is to be installed in new pipe chase for future access to water and waste lines (coordinate location with owner). All areas where new drywall is installed or paneling removed will need to be textured, primed, and painted to match surrounding area. Cove base shall be installed around new pipe chase to match cove base installed during new flooring installation. Ceiling tile grid and tiles will need to be modified to accommodate new pipe chase.

Note: The wall material behind the paneling to be removed is plaster.

- v. **Administration Building**

See “Exhibit 2 – Administration Building Interior Paint” for areas and square footages.

- vi. **Maintenance Building**

See “Exhibit 2 – Administration Building Interior Paint” for areas and square footages.

*** Note: All measurements are to be considered approximate and Contractor shall be responsible for verifying actual square footage of surfaces to be painted.**

B. *EXTERIOR WORK

- i. **Administration Building**

Paint exterior of building to include patio block wall (See “Exhibit 3 – Administration CMU Columns & Maintenance Stripe” for areas and square footages).

- ii. **Maintenance Building**

Paint all CMU columns around perimeter of building, and add bold accent stripe to base of building along north side in-between where bay doors are located (See “Exhibit 3 – Administration CMU Columns & Maintenance Stripe”).

*** Note: All measurements are to be considered approximate and Contractor shall be responsible for verifying actual square footage of surfaces to be painted.**

5. Materials

All products shall be first quality, and comply with applicable health, safety, and environmental regulations.

6. Workmanship

- A.** All work shall be done by experienced, skilled craftsmen. Surface preparation shall be in accordance with standard of the Painting and Decorating Contractors of America.
- B.** All finishes shall be applied evenly and be free from runs, sags, skips, crawls, or other defects.
- C.** Paints shall be applied in accordance with the manufacturer's printed directions. Painting shall not be done when the temperatures become extreme. Precautions should be taken when temperature exceeds 90° F, or when the temperature falls below 50° F.
- D.** The new and old coatings must be compatible. The determination of compatibility may be accomplished through examination of the owner's records, laboratory analysis, or by field-testing.
- E.** A variety of cleaning and removal systems are available for the Painting Contractor to employ. The use of any one or a combination of more than one is dependent upon the condition of existing coatings, the material applied, and the substrate involved.
- F.** Because of varying substrates, the selection of tools must be left to the Painting Contractor, with consultation with the specification service and the owner's agent.

7. Surface Preparation and Finish Schedule

- A.** All products specified comply with the current air quality regulations governing architectural coatings.
- B.** Regulatory changes may affect the formulation, availability, or use of specified coatings.
- C.** Check with the supplier or your representative regarding such changes prior to start painting project.
- D.** The products listed in this Repaint Specification can be supplied by Dunn-Edwards or a comparable paint manufacturer.
- E.** Contractor will have sole responsibility for surface preparation or material application.

8. Exterior Masonry and Concrete Surfaces

A. Surface Preparation

- 1.** Remove all dirt, chalk, and all surface contaminants that will interfere with adhesion of subsequent coats without damaging the substrates or adjacent areas.

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2. Wire brush all loose and peeling paint and dust all surfaces before spot priming or applying finish coats.
3. Power wash all areas to be painted, and use a mild detergent solution such as MI-T-M's surface prep if required. Then rinse with clear clean water until all residues has been removed from all surfaces. Allow the surfaces to thoroughly dry before proceeding with preparation or painting.
4. Moisture content for Masonry and Stucco must not exceed 17%
5. After washing the surfaces, the areas must be carefully examined for cracking, blistering, peeling or flaking of existing paint. All loose, unsound, or non-adhering paint must be removed.
6. Sandblasting should be performed by a qualified contractor to insure protection of the substrate and the surrounding areas, as well as adherence to all state and local regulations.
7. Mildew may be dealt with at this time by metering a mildew inhibitor in the power wash. If not metering a solution in the power wash, scrub affected areas with the following solution:
 - Household Bleach 1 Quart
 - Add warm water to make 1 Gallon
 - Or use a commercially available mildew inhibitor.
 - i. Rinse all surfaces with clean, clear water to remove any remaining residue. Severe mildew may require additional treatment.
 - ii. Again allow the surfaces to thoroughly dry before proceeding with preparation or painting.
 - iii. Caution: Bleach may be harmful to eyes, clothing, and surrounding vegetation, so take all precautions to ensure safety.
8. Efflorescence, white residue salt deposits, should be removed by wire brushing and acid etching with phosphoric acid. Rinse all surfaces with clean, clear water to remove any remaining residue.
9. Note: Efflorescence, which appears on cementations or plaster surfaces, is caused by moisture entering or contained in the substrate. Water-soluble salts in the masonry are brought to the surface where the water evaporates, leaving white residue salt deposits. Defects, which cause this problem, must be corrected before any painting is attempted.
10. Where rust stains are present the source must be identified and corrected (i.e. nail heads, flashing, handrails, etc.). Surfaces should then be cleaned and spot primed with the appropriate primer or sealer as stated in the Finish Schedule.
11. Large cracks must be V-grooved out and all other surface defects, such as holes and the like, must be repaired using the appropriate patching

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materials to match the surrounding surface profile. Dust surface and spot prime all patched areas with the appropriate primer or finish coat as stated in the Finish Schedule.

12. De-gloss all glossy and previously enameled surfaces to provide a roughened surface or “Tooth” for good adhesion of subsequent coats. Spot prime all patched and sanded areas with the appropriate primer or finish coat as stated in the Finish Schedule.

B. Finish Schedule

1. Tilt-Up

- i. Spot Prime Acrylic Masonry Primer/Sealer
- ii. First Coat Exterior 100% Acrylic Flat Finish
- iii. Second Coat Exterior 100% Acrylic Flat Finish

Special Notes and Instructions

- Optional second coat as needed for coverage
- Masonry repair to meet industry standards
- Caulk all dissimilar surfaces with elastomeric caulking

9. Exterior Metal

A. Surface Preparation

1. Remove all loose and peeling paint, dirt, chalk, and all surface contaminants that will interfere with adhesion of subsequent coats, without damaging the substrates of adjacent areas.
2. Wire brush all loose and peeling paint and dust all surfaces before spot priming or applying finish coats.
3. Sandblasting should be performed by a qualified contractor to insure protection of the substrate and the surrounding areas, as well as adherence to all state and local regulations.
4. Power wash all areas to be painted, and use a mild detergent solution such as MI-T-M's surface prep if required. Then rinse with clean, clear water until all residues has been removed from all surfaces. Allow the surfaces to thoroughly dry before proceeding with preparation or painting.
5. After washing the surfaces, the areas must be carefully examined for cracking, blistering, peeling or flaking of existing paint. All loose, unsound, or non-adhering paint must be removed.
6. Mildew may be dealt with at this time by metering a mildew inhibitor in the power wash. If not metering a solution in the power wash, scrub affected areas with the following solution:
 - Household Bleach 1 Quart

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- Add warm water to make 1 Gallon
 - Or use a commercially available mildew inhibitor.
 - i. Rinse all surfaces with clean, clear water to remove any remaining residue. Severe mildew may require additional treatment.
 - ii. Again allow the surfaces to thoroughly dry before proceeding with preparation or painting.
 - iii. Caution: Bleach may be harmful to eyes, clothing, and surrounding vegetation, so take all precautions to ensure safety.
7. Power sand or hand sand all areas of loose, unsound, or non-adhering paint. All thick edges of the remaining paint shall be feather edged, filled as necessary, and then dusted.
 8. Rust, Scale, and Corrosion should be removed either by power sanding or hand sanding and spot primed with the appropriate primer or finish coat as stated in the Finish Schedule.
 9. Unpainted galvanized metal should be solvent washed, treated with Jasco Prep and Prime (a liquid iron phosphate remover) or approved equal that etches the metal to provide bonding, and primed with the appropriate primer or finish coat as stated in the Finish Schedule.
 10. De-gloss all glossy and previously enameled surfaces to provide a roughened surface or "Tooth" for good adhesion of subsequent coats. Spot prime all patched and sanded areas with the appropriate primer or finish coat as stated in the Finish Schedule.

B. Finish Schedule**1. Handrails, Utility Doors, Support Post**

- i. First Coat Water-based Rust-Preventative Acrylic Primer
- ii. Second Coat Waterborne Alkyd Semi-Gloss Enamel
- iii. Third Coat Waterborne Alkyd Semi-Gloss Enamel

Special Notes and Instructions

- Second coat to be applied to ensure complete coverage
- Third coat as needed for complete coverage.

2. Downspouts, Flashing

- i. Spot Prime Multi-Purpose Latex Primer
- ii. First Coat Exterior Acrylic Flat Finish
- iii. Second Coat Exterior Acrylic Flat Finish

Special Notes and Instructions:

PAINT AND CARPET REPLACEMENT AND INSTALLATION

- Second coat to be applied to ensure complete coverage.

10. Interior Drywall, Plaster Concrete**A. Surface Preparation**

1. Remove all dirt, grease, and all other surface contaminants that will interfere with adhesion of subsequent coats, without damaging the substrates or adjacent areas.
2. Wash the surfaces with the appropriate solution and when thoroughly dry, carefully examine for cracking, blistering, peeling or flaking of existing paint. All loose, unsound, or non-adhering paint must be removed.
3. NOTE: Moisture content should not exceed the following: Drywall 12%, Plaster 12%, Concrete 12%,
4. Mildew on interior surfaces is aided in growth when there is a lack of ventilation, high moisture content in the air, and a lack of sunlight. Whenever possible, addressing these conditions will help alleviate the problem in the future. To remove mildew, wash the affected areas with the following solution:
 - Trisodium Phosphate 2/3 cup
 - Household Bleach 1 Quart
 - Powder Detergent 1/3 Cup
 - Add warm water to make 1 Gallon
 - i. Rinse all surfaces with clean, clear water to remove any remaining residue. Severe mildew may require additional treatment.
 - ii. Again allow surfaces to thoroughly dry before proceeding with preparation or painting.
 - iii. Caution: Bleach may be harmful to eyes, clothing, and surrounding vegetation, so take all precautions to ensure safety.
5. Efflorescence, white residue salt deposits, should be removed by wire brushing and acid etching with phosphoric acid. Rinse all surfaces with clean, clear water to remove any remaining residue.
 - i. Note: Efflorescence, which appears on cementations or plaster surfaces, is caused by moisture entering or contained in the substrate. Water-soluble salts in the masonry are brought to the surface where the water evaporates, leaving white residue salt deposits.
 - ii. Defects, which cause this problem, must be corrected before any painting is attempted.

PAINT AND CARPET REPLACEMENT AND INSTALLATION

6. Water stains should be primed with a stain blocking primer to prevent bleeding through. This should be done only after the source of the water has been alleviated and the surface has thoroughly dried.
7. New plaster and masonry surfaces should be checked for alkalinity using phenolphthalein. The surface color will change to purple when excess alkaline is present. Neutralize the surface with a 5% phosphoric acid solution.
8. Patch all voids and holes with the appropriate patching material to match surrounding surfaces. Sand, dust, and spot prime with the appropriate primer or finish listed in the Finish Schedule.
9. De-gloss all glossy and previously enameled surfaces to provide a roughened surface or "tooth" for good adhesion of subsequent coats. Spot prime all patched and sanded areas with the appropriate primer or finish coat as stated in the Finish Schedule.

B. Finish Schedule:**1. Plaster Block**

- | | | |
|------|-------------|----------------------------|
| i. | Spot Prime | Multi-Purpose Latex Primer |
| ii. | First Coat | Acrylic Semi-Gloss Enamel |
| iii. | Second Coat | Acrylic Semi-Gloss Enamel |

Special Notes and Instructions

- Second coat to be applied to ensure complete coverage

11. Interior Metal

A. Surface Preparation

1. Remove all dirt, grease, and all other surface contaminants that will interfere with adhesion of subsequent coats, without damaging the substrates or adjacent areas.
2. Wash surfaces and carefully examine for cracking, blistering, peeling, or flaking of existing paint. All loose, unsound, or non-adhering paint must be removed.
3. Remove all rust and scale and spot prime with the appropriate primer as stated in the Finish Schedule.
4. All galvanized metal, either bright or dull, should be carefully evaluated. Treat with Jasco Prep and Prime (a liquid form iron phosphate remover) or approved equal to provide bonding with a smooth surface, where appropriate and prime as stated in the Finish Schedule.
5. Sand all thick edges of the remaining paint to feather edge and dust.
6. Fill all voids and holes and sand to match the surrounding substrate.
7. De-gloss all glossy and previously enameled surfaces to provide a roughened surface or “tooth” for good adhesion of subsequent coats.
8. Spot prime all bare metal areas as well as all patched and filled areas with appropriate primer as stated in the Finish Schedule.

B. FINISH SCHEDULE

1. Doors, Windows, Handrails

- | | | |
|------|-------------|--|
| i. | First Coat | Water-based Rust-Preventative Acrylic Primer |
| ii. | Second Coat | Waterborne Alkyd Semi-Gloss Enamel |
| iii. | Third Coat | Waterborne Alkyd Semi-Gloss Enamel |

Special Notes and Instructions

- Second coat to be applied to ensure complete coverage.
- Third coat to add additional coverage as needed

12. Operational Impacts

Contractor shall coordinate the Work so as to minimize conflicts and optimize efficiency. If and when it should be necessary for the Contractor to impact day-to-day operations of Omnitrans functions in order to pursue the Work, the Contractor shall furnish adequate notice to Omnitrans and coordinate the means and timing to avoid, minimize, or circumvent such impacts. Omnitrans reserves the right to assess and anticipate such

impacts and the right to stop or postpone the Work until a mutually satisfactory time and means can be agreed upon.

13. Contractor Parking

Contractor shall not stop or park any of his vehicles in such a manner to prevent the timely entrance and exit of Omnitrans coaches from the parking area. Contractor shall park in designated areas as assigned by project manager.

14. Storage

Contractor's operations for the preparation of paints and storage of materials shall be limited to a designated area, and such space shall be kept clean and orderly at all times.

15. Property Damage

Contractor shall at all time take necessary steps to protect the public and all property from damage during his operations, and shall be responsible for any and all kinds of damage to the work or property caused by Contractor's employees or equipment.

16. Cleanup

- A.** During the progress of the work, safety shall be of the utmost importance at all times, and the contractor shall safeguard persons during the progress of the work by providing barricades and appropriate lights to warn of obstruction. Upon completion of the work and before acceptance and final payment shall be made, the contractor shall clear the entire project and all grounds occupied by him in connection with his work of all rubbish, excess material, and any other debris caused by his operations.
- B.** Contractor shall arrange for the disposal of all materials generated in the performance of this contract. No trash or waste of any kind that is generated by the contractor shall be disposed of in any receptacle that is in place for the use of our employees. Any trash or waste that must be disposed of by Omnitrans due to the contractor's failure to provide for proper disposal will result in a liquidated damage to the contractor equal to the cost of disposal plus the labor costs associated with making those arrangements.

17. Workplace Safety

Contractor shall ensure that all of its operations strictly adhere to all Federal, State, and Local safety and environmental laws and regulations. Omnitrans reserves the right to correct unsafe practices by the contractor's employees, or to stop work until the contractor makes the necessary corrections.

A. Smoking

Omnitrans uses designated areas for smoking. Smoking is not allowed at any time in the bus yard, on or in any buildings, or by the entrances to any buildings. Smoking by employees of the contractor, or his sub-contractors, shall not create a hazardous condition for themselves, co-workers, or employees and property of Omnitrans.

B. Eye Protection

- i. Per Omnitrans eye protection policy, ANSI Z87 approved eye protection shall be worn by all persons while conducting business outside the boundaries of the established “green zone”. The policy also requires that eye protection be utilized if hazardous work is being conducted within the “green zone”. The contractor shall ensure that all of its employees have been provided eye protection that meets the requirement.
- ii. The Project Manager, or his designee, reserves the right to stop the Contractor’s work in the event that a Contractor employee or subcontractor is in violation, and that work will remain stopped until the violation is corrected.

C. Vests

- i. Contractors and their employees working or performing services in outside work zones shall wear ANSI Class 2 Safety Vests. ANSI Class 2 Safety Vests must be worn at all times in the bus yard and in the relief vehicle locations.
- ii. Safety Vests are not required while in designated, marked with painted green borders Safety Zones on Omnitrans’ property or while on sidewalks, curbs, or raised pavement.

D. Hazardous Materials

- i. Contractor shall perform all work in a clean, safe and professional manner, causing no hazards to Omnitrans staff, facility the environment or Contractors service personnel.
- ii. All hazardous waste shall be handled, collected, stored and disposed of in accordance with federal, state and local environmental compliance regulations.
- iii. Coordination of hazardous waste collection, storage, and disposal shall be made by the Contractor with Omnitrans approval.

IV. SCOPE OF WORK PART 3 – GENERAL

1. Summary

A. Section Includes: Carpet removal, new carpet and accessories for direct glue down installation.

B. General: The following publications of the issues listed below, but referred to hereinafter by basic designation, form a part of this specification to the extent as if bound herein:

American Society for testing and Materials (ASTM):

- i. E84 – Test Method for Surface Burning Characteristics of Building Materials.
- ii. E648 – Test Method for Critical Radiant Flux of Floor Covering Systems Using a Radiant Heat Energy Source.

2. Submittals

A. Layout Drawings: Show layout of each carpet type installation, at 1/8" scale.

B. Samples: Submit for verification purposes, one full tile of each carpet required. Samples shall be accompanied by manufacturer's technical specification for each carpet required using terminology characteristics as listed in this specification. Also, include a complete representation in sample form of all available colorations.

C. Maintenance Data: Submit manufacturer's printed maintenance recommendations for the care, cleaning, and maintenance of the carpet, including detailed instructions pertaining to hot water extraction methods.

3. Quality Assurance

A. Flooring Contractor's Qualifications: Firm with not less than 5 consecutive years of experience in installation of commercial carpeting of type, quantity and installation methods similar to work of this section. THE SUCCESSFUL CONTRACTOR SHALL SUBMIT WRITTEN CERTIFICATION FROM CARPET MANUFACTURER, DEMONSTRATING THEIR FIRM IS A TRAINED & CERTIFIED DEALER UPON AWARD.

B. Manufacturer's Qualifications: Firm (carpet mill) with not less than 5 consecutive years of production experience with carpet type specified in this section or approved equal; whose published product literature clearly indicates general compliance of products with requirements of this section.

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- C. **Measurement Verification:** Dimensions shown on drawings (Exhibit 1 – I-Street Approximate Square Footage) are approximate. It is the Contractor's responsibility to verify all dimensions and job site conditions; order sufficient yardage to fully carpet areas as indicated and to fill overage requirements as specified. No substitutions shall be permitted to make up for any shortage of material in overage or in carpet to be installed.
- D. Contractor shall be totally responsible for the accuracy of his/her measurements of total yardage, individual floor yardage, and dye lot yardage requirements, extra yardage for pattern match, and roll length requirements; no additional compensation shall be allowed for shortage of materials.
- E. **Dye Lots:** All carpet of the same type in continuous areas shall be from the same dye lots.
- F. Owner reserves the right to test carpet at their expense to verify that the delivered carpet is as specified. If carpet does not meet specifications, manufacturer will reimburse owner the testing expense and the carpet may be rejected.

4. Product Delivery, Storage & Handling

- A. Deliver carpeting materials in original mill protective package with mill register numbers and tags attached. Maintain wrappers and protective covers in place until carpet is ready for installation. Store inside, in well-ventilated area, protected from weather, moisture and soiling.
- B. **Cutting:** Before beginning installation, carpet shall be inspected for defects, color variations or shipping damage and be immediately replaced if any of these conditions exist at no additional cost to the Owner. Carpet tiles shall be inspected to insure that carpet tiles are from the same dye lot.
- C. **Deliver all required overages and maintenance stock to owner's specified location prior to beginning installation.**

5. Job Conditions

- A. **Environmental Conditions:** Maintain temperatures in space in accordance with carpet manufacturer's recommendations, but in no case less than 60 degrees F for 24 hours prior to, during and after installation. Subfloor temperature should be a minimum 60 degrees F for 24 hours prior to and after installation.

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- B. Precondition:** All of the carpet shall be stored in a room onsite 24 hours prior to actual installation with the room preconditioned at a minimum of 60 degrees F with humidity between 35% to 65%.

6. Seaming Requirement

General: In addition to the requirements and recommendations of the Carpet Manufacturer, the following criteria shall be adhered to:

- i. Installation layout shall enable future replacement, especially in large open areas and traffic paths, unless specifically indicated in writing by owner or owner's representative.
- ii. No carpet tile pieces smaller than 6" in width or length shall be used.
- iii. Seams occurring at doors of different types of carpet shall be parallel to closed door, and be centered directly under the closed door.
- iv. Contractor is responsible for trimming all loose yarn and fuzzy edges of carpet tiles.
- v. All cutting of carpet for telephone and electrical outlets shall be the responsibility of the Contractor.

7. Carpet Warranty

General: Provide special warranty, signed by Contractor, and Carpet Manufacturer, agreeing to repair or replace defective materials and workmanship of carpeting work during a 10 year warranty period following date of Substantial Completion.

8. Extra Stock

General: Furnish 5% additional yardage of each carpet type required; extra yardage is over and above any overage provided by manufacturer. Normal manufacturing overage not to exceed 10% for under 1000 yards, not to exceed 5% for over 1000 yards. Deliver to the Owner uncut in clearly marked dust-proof packages **prior to commencement of work**; store where directed.

V. SCOPE OF WORK PART 4 – PRODUCTS

1. Administration Offices/Closed-Cell Cushion Modular Tile 24"x 24"

Provide the following product that meets the specifications, **2. MATERIALS**, herein. Tandus style Ratio, color Trichrome #79001 or approved equal

2. Materials

- A.** Closed-Cell Cushion Modular Tile shall have been tested and passed The Carpet and Rug Institute (CRI) Green Label Plus for Indoor Air Quality. Product must have a Texture Appearance Retention Rating (TARR) of 3.0 (Heavy) or greater.

B. Face Construction:

- | | | |
|-------------|------------------|--|
| i. | Construction: | NO LESS THAN 9.8 stitches per inch |
| ii. | Gauge: | NO LESS THAN 5/64 Gauge |
| iii. | Face Weight: | NO MORE THAN 20 ounces |
| iv. | Pile Height Ave: | No GREATER THAN 0.187 inches |
| v. | Density: | Not applicable to performance evaluation |
| vi. | Fiber System: | Antron Legacy Nylon |
| vii. | Dyeing Method: | 85% Solution Dyed/ 15% Yarn Dyed |

C. Backing System:

- | | | |
|--------------|---------------------------------|--------------------------------|
| i. | Primary Tufting Substrate: | Flex-Aire Cushion |
| ii. | Sealant Coat (Pre-Coat): | Synthetic Non-woven |
| iii. | Backing Type: | Sealant Vinyl |
| iv. | Backing Weight: | Closed Cell Vinyl Cushion ONLY |
| v. | Backing Density: | 35.5 oz/sq yd |
| vi. | Backing Thickness: | 18.5 lbs/cu ft |
| vii. | Backing Compression Set: | No Less Than 0.156 inch |
| viii. | Backing Compression Deflection: | Max 10% |
| ix. | Antimicrobial: | Min 5 lbs at 25% |
| | treatments | No anti-microbial (pesticide) |

applied in backing during manufacturing in compliance with The Healthy School Handbook an NEA Publication. AATCC-74 should not demonstrate a zone of inhibition when tested.

D. Warranty:

Lifetime No Zipper or Edge Ravel.

E. Installer Certification:

Installation companies must be trained and certified for installation of this material by award.

3. Entryway/Closed-Cell Cushion Soft Surface Flooring

Provide the following product that meets the specifications, 4. **MATERIALS**, herein.

Tandus style Abrasive Action, color Winter Grey #19103 or approved equal

PAINT AND CARPET REPLACEMENT AND INSTALLATION

4. Materials

A. Closed-Cell Soft Surface Flooring shall have been tested and passed the CRI Green Label Plus for Indoor Air Quality. Product must have a Texture Appearance Retention Rating (TARR) of greater than 3.5 (Specialty).

B. Face Construction:

- | | | |
|--------------|------------------|---|
| i. | Construction: | NO LESS THAN 8.0 stitches per inch |
| ii. | Width: | Six (6) feet |
| iii. | Gauge: | NO LESS THAN 1/12 Gauge |
| iv. | Face Weight: | NO MORE THAN 24 ounces |
| v. | Pile Height Ave: | No GREATER THAN 0.115 inches |
| vi. | Density: | Not applicable to performance evaluation |
| vii. | Fiber System | Type 6,6 Nylon |
| viii. | Dyeing Method: | 100% Solution Dyed |
| | Scraper Yarn: | Must Contain a Courser Yarn for Soil Collection/Removal |

C. Backing System:

- | | | |
|--------------|---------------------------------|---|
| | | Powerbond Cushion |
| i. | Primary Tufting Substrate: | Synthetic Non-woven |
| ii. | Sealant Coat (Pre-Coat): | Sealant Vinyl |
| iii. | Backing Type: | Closed Cell Vinyl Cushion ONLY |
| iv. | Backing Weight: | 35.5 oz/sq yd |
| v. | Backing Density: | 18.5 lbs/cu ft |
| vi. | Backing Thickness: | No Less Than 0.156 inch |
| vii. | Backing Compression Set: | Max 10% |
| viii. | Backing Compression Deflection: | Min 7 lbs at 25% |
| ix. | Antimicrobial: | No anti-microbial (pesticide) treatments applied in backing during manufacturing in compliance with The Healthy School Handbook an NEA Publication. AATCC-74 should not demonstrate a zone of inhibition when tested. |
| x. | Moisture Barrier at Seams: | Moisture Penetration by Impact at <u>SEAMS</u> @ 10 psi: No penetration after 10,000 impacts.** The British Spill Test <u>IS NOT</u> an acceptable measurement for moisture barrier. |

D. Installer Certification:

Installation companies must be trained and certified for installation of this material.

5. Common Areas/Wood Look Vinyl Tile Heterogeneous Vinyl Tile 4"x 48"

Provide the following product that meets the specifications, 6. **MATERIALS**, herein.
Centiva Contour style Modern Wood, color Thistle #3602 or approved equal

6. Materials

Heterogeneous vinyl tile plank

A. Centiva Contour

- | | | |
|------|----------------------|------------------------------|
| i. | Classification: | ASTM F1700 Class III Type B |
| ii. | Total Thickness: | NOT LESS THAN .120" (3.0 MM) |
| | Wear Layer: | Single Component Wear Layer |
| | NOT LESS THAN 32 mil | |
| iii. | Size: | 6" x 36" Plank |
| iv. | Emboss: | Tick |
| v. | Edge Treatment: | Square Edge |

B. Installer Certification:

Installation companies must be trained and certified by manufacturer for installation of this material by award.

7. Restrooms - Homogeneous Vinyl Sheet Flooring

Provide the following product that meets the specifications, 8. **MATERIALS**, herein.
Johnsonite Optima IQ Natural, color 274 Shadow CG or approved equal.

8. Materials

A. Physical Characteristics:

6'6" wide, .080" thick.

B. Product Performance and Technical Data:

- i. Meets or exceeds the performance requirements of resistance to heat/light aging, chemicals, and dimensional stability when tested to the methods described below.
- ii. Classification: ASTM F 1913 – Exceeds requirements
- iii. Wear Layer Thickness: ASTM F 1913 - .080" Thick
- iv. Polyurethane reinforced: ASTM F 410 – Yes
- v. Static Load Limit: ASTM f 970 – Passes
- vi. Impact Sound Transmission: EN ISO 140-8/717-2 – 31 IIC
- vii. Resistance to Heat: ASTM F 1514 – $\Delta E \leq 8.0$
- viii. Resistance to Light: ASTM F 1515 – $\Delta E \leq 8.0$

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- ix. Slip Resistance: ASTM D 2047 – SCOF ≥ 0.6
- x. Flame Resistance: ASTM E 648 – Class 1

D. Installation:

- i. Must be installed per manufacturer's requirements
- ii. All Seams must be heat welded.
- iii. Heat weld must match in color. Samples must be submitted and approved prior to installation.

E. Installer Certification:

Installation companies must be trained and certified by manufacturer for installation of this material by award.

9. Resilient Rubber Wall Base

Provide the following product that meets the specifications, **10. MATERIALS**, herein. Johnsonite Thermoplastic Wall Base, Color 292 Evening Star or approved equal.

10. Materials**A. Physical Characteristics:**

DC-XX .125" thick, 4" tall, and 48" lengths with Toe.

B. Product Performance and Technical Data:

- i. Meets or exceeds the performance requirements of resistance to heat/light aging, chemicals, and dimensional stability when test to the methods described in ASTM F-1861.
- ii. Flexibility – Will not crack, break, or show any signs of fatigue when bent around a 1/4" (6.4 mm) diameter cylinder.
- iii. Chemical resistance: ASTM F-925 Passes.
- iv. Resistance to Light: ASTM F-1515 $\Delta E < 8$

C. Fire Resistance:

ASTM E 84/NFPA 255 – Class A < 450 , ASTM 648/NFPA 253 – Class 1.

11. Warranties

- A. Definition of Lifetime: Lifetime is defined as the period from which materials are installed until the date in which the owner removes materials from service.
- B. Carpet manufacturer's Lifetime Warranty, non-prorated, against product failure covering all costs including freight, labor, and material for the following:

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- i. Edge Ravel/Tuft Bind.
 - ii. Back lamination.
 - iii. Static protection as stated above.
 - iv. Wear - No more than 10% Face Yarn Loss.
 - v. Cup, Dome, Dish
 - vi. Dimensional stability
 - vii. Adhesive bond to the floor
- C. Installation Warranty: Ten (10) year warranty, non-prorated, against any installation related failure covering all costs including freight, labor, and material co-signed by the flooring contractor and the manufacturer.
- D. The resilient athletic flooring is warranted to be free from manufacturing defects for a period of three (3) years from the date of shipment from the manufacturer.

12. Accessories

- A. Adhesives: Waterproof, non-flammable carpet adhesive recommended and approved by carpet manufacturer in writing for compatibility with carpet backing. All floor sealers, seam sealers, and adhesives shall contain no calculated solvents per Occupational Safety and Health Administration (OSHA) Code of Federal Regulations (CFR)– Title 29, Part 1910, Occupational Safety and Health Standards, Subpart Z – Toxic and Hazardous Substance §1926.1200 Hazard Communication, have no calculated VOC's, be non-flammable, and meet the criteria of the CRI Green Label Plus Certification Program. MSDS and samples required on products used.
- B. Miscellaneous Materials: As recommended and approved in writing by manufacturer of carpet, and selected by Flooring Contractor to meet project circumstance and requirements.
- C. Protection Paper: Fortifiber Corporation "Seekure 892", or approved heavy, reinforced, non-staining kraft laminated paper.

VI. SCOPE OF WORK PART 5 – EXECUTION CARPET TILE**1. Carpet Removal**

Remove and dispose of all existing carpet and materials to make subfloor acceptable for installation if applicable.

2. Movement of Furniture

- A. Contractor shall move & replace all items necessary for performing services as required. Items shall include, but are not limited to, systems furniture, desks, chairs, filing cabinets, telecommunications and data processing equipment, bookcases, credenzas, office equipment, boxed material and the contents thereof. The area occupants will be instructed to box-up content in their respective areas. Contractor shall make reasonable efforts to minimize dust by covering items when and where necessary.

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- B.** Owner will prepare the area to receive carpet prior to installer arrival by removing personal effects, etc. from desks and removing and boxing of books from bookcases and shelves. Contractor shall coordinate installation schedule with the Project Manager. The carpet installer crew will move furniture, boxes, etc. out of, and back into the areas being carpeted. Owner will be responsible for disconnecting and moving all major electronic and computer equipment. If the area to receive carpeting contains vending machines, it will be the owner's responsibility to contact the vending company in advance to arrange for their personnel to move the machines.

3. Examination / Preparation

- A.** Prepare sub-floor to comply with criteria established in manufacturer's installation instructions. Use only preparation materials that are acceptable to the manufacturer.
 - i. Remove all deleterious substances from substrate(s) that would interfere with or be harmful to the installation.
 - ii. Remove sub-floor ridges and bumps. Fill cracks, joints, holes, and other defects.
- B.** Verify that sub-floor is smooth and flat within specified tolerances and ready to receive carpet.
- C.** Verify that substrate surface is dust-free and free of substances that would impair bonding of product to the floor.
- D.** Verify that concrete surfaces are ready for installation by conducting moisture and pH testing. Results must be within limits recommended by Manufacturer.
- E.** There will be no exceptions to the provisions stated in the Manufacturer's installation instructions.
- F.** Materials: Inspect all goods to verify all goods uniformity, quality, color and texture against the approved samples prior to installation. Any discrepancy should be brought to the attention of the Project Manager.

4. Carpet Reclamation

- A.** Submittals:
 - i. Proposed dust-control measures.
 - ii. Proposed packing and transportation measures.
 - iii. Schedule of carpet reclamation activities indicating the following:
 - a. Detailed sequence of removal work.
 - b. Inventory of items to be removed and recycled.
 - iv. Reclamation agency records indicating receipt and disposition of used carpet.
- B.** Quality Assurance:
 - i. Reclamation Agency: Firm providing used carpet recycling program.
 - ii. Carpet Remover: Firm providing carpet removal services for recycling purposes.

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- iii. Regulatory Requirements: Comply with governing regulations. Comply with hauling and disposal regulations of authorities having jurisdiction.
- iv. Record off-site removal of debris and materials and provide the following information regarding the removed materials. Time and Date of Removal; Type of Material; Weight and Quantity of Materials; Final Destination of Materials.
- v. Certification: Reclamation Agency and Carpet Remover shall certify in writing that used carpet was removed and recycled to assure carpet is not landfilled.
- vi. Removed carpet and associated materials shall not be removed and placed in a landfill.

C. Preparation:

Vacuum used carpet before removal.

D. Carpet Removal:

- i. Remove used carpet in large pieces, roll tightly, and pack neatly in container. [Include carpet scrap and waste from new installation.] Immediately remove from Site and place in container or trailer.
- ii. Deposit only clean, dry used carpets in containers. Clean shall be defined as carpet free from demolition debris or asbestos contamination, garbage, and tack strips.

E. Container Disposal:

- i. Place used carpet in 40-yd ³ (30.5 m ³) container supplied by a reclamation agency. Containers are fully enclosed, front (end) loading. Place only used commercial carpeting in collection container. Container shall be kept locked or supervised.
- ii. Use effective packing techniques to maximize the amount of material in the container. On average, container holds 2000 to 3000 yd ² (1672 to 2508 m ²).
- iii. Neatly stack carpet tiles or repack in cardboard boxes prior to placing in container. Do not stack higher than 6 feet (1.8 m).
- iv. When container is full, contact reclamation agency to coordinate pickup and drop-off of replacement container. If container is locked for security purposes, remove the lock prior to pickup.

5. Carpet Installation, General

- A. General: Comply with manufacturer's instructions and recommendations for installation of this type of carpet by the glue down method.

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- B.** Prepare the subfloor to insure a successful installation. Utilize a floor sealer where needed or recommended by manufacturer.
- C.** Carpeting shall be installed with pile lying in the same direction. Cut carpet evenly and accurately to fit neatly at walls, columns, and projections. Extend carpet under open-bottomed and raised-bottom obstructions, and under removable flanges of obstructions.
- D.** Installed carpet shall be free from ripples, ravels, frays, puckers and raw exposed edges. All loop pile carpets will demonstrate some fuzzy edges due to normal manufacturing conditions. It is the carpet installer's responsibility to trim all edges to eliminate fuzzy seams.
- F.** Expansion Joints: Do not bridge building expansion joints with continuous carpeting, provide for movement.

6. Transitions & Wall Base Installation

- A.** Thermoplastic rubber base shall be a cove type base that is color coordinated with the carpet and of the same width as the existing base. Adhesive shall be of a type recommended by the manufacturer of the base.
- B.** Transition strips shall be of a rubber type that is color coordinated with the rubber base. Adhesive shall be of a type recommended by the manufacturer of the transition strip.
- C.** Rubber base and transition samples shall be submitted to the Project Manager for approval prior to installation.
- D.** Install rubber cove base in all areas where base was removed as follows:
- E.** Unroll base materials. Cut into accurate lengths. Minimize number of joints.
- F.** Match edges at all seams or double cut adjoining lengths.
- G.** Install with tight butt joints. No joint widths greater than 16/64 in.
- H.** Apply adhesive and firmly adhere to wall surfaces.
- I.** Press down so that bottom edge is over carpet and follows carpet profile.
- J.** Follow manufacturer's recommendations at all corners.
- K.** Scribe base accurately to abutting materials.
- L.** Fit top set base joints tight and vertical. Install base on solid backing: adhere tightly to wall surfaces. Miter or form internal corners. Form external corners at the job site using base material.
- M.** Scribe and fit to door frames and other obstructions.
- N.** Install rubber base after floors are laid. Apply plastic filler to masonry walls to receive rubber base, to prevent joints in masonry showing through base. Install wall base as recommended by the manufacturer. Cut and fit neatly at trim and other projection.
- O.** Where angle corners occur, score back of base so that an "easy" fit is accomplished.

7. Final Inspection

- A.** Contractor shall give written notice at least three (3) days in advance of date on which project will be one hundred percent (100%) complete and ready for final inspection.

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Prior to final inspection date, the Contractor shall verify in writing that in the Contractor's best judgment no deficiencies exist.

- B.** Contractor shall prepare a Punch List of deficiencies found on final inspection that does not prevent the building or area(s) within the building from being occupied. The Contractor shall correct the deficiencies within ten (10) days after the building or area(s) within the building has been occupied and submit a report of the corrections as a condition of final acceptance.

8. Cleaning and Protection

- A.** Remove and dispose of debris and unusable scraps.
- B.** Vacuum carpet using two motor, top loading, upright commercial machine with brush-only element, utilizing a high filtration dust bag. Remove spots in accordance with carpet manufacturer's guidelines and replace carpet where spots cannot be removed. Remove any protruding face yarn using sharp scissors. Be certain to trim any loose yarns or fibers at all seams.
- C.** Following cleaning and vacuum, carefully protect the carpeting from soiling and damage until final acceptance. Protection shall be accomplished by using approved protection paper. Edges shall be lapped 6 inches and secured with non-asphaltic tape. Covering shall be kept in repair and damaged portions replaced during the construction and move-in period.
- D.** Maintenance Materials: Deliver usable, uncut carpet tiles to Owner's designated storage space, properly packaged and identified. Dispose of smaller pieces as construction waste.

VII. SCOPE OF WORK PART 6 – EXECUTION HETEROGENEOUS VINYL TILE / MODERN WOOD THIRSTLE FLOORING.

1. VCT Removal

Remove and dispose of all existing VCT and materials to make subfloor acceptable for installation if applicable.

2. Movement of Furniture

- A.** It shall be the responsibility of the contractor to move & replace all items necessary for performing services as required. Items shall include, but are not limited to, systems furniture, desks, chairs, filing cabinets, telecommunications and data processing equipment, bookcases, credenzas, office equipment, boxed material and the contents thereof. The area occupants will be instructed to box-up content in their respective areas. The contractor shall make reasonable efforts to minimize dust by covering items when and where necessary.

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- B.** Owner will prepare the area to receive carpet prior to installer arrival by removing personal effects, etc. from desks and removing and boxing of books from bookcases and shelves. Contractor shall coordinate installation schedule with the contract administrator. The installer crew will move furniture, boxes, etc. out of, and back into the areas being re-floored. Owner will be responsible for disconnecting and moving all major electronic and computer equipment. If the area to receive carpeting contains vending machines, it will be the owner's responsibility to contact the vending company in advance to arrange for their personnel to move the machines.

3. Delivery, Storage and Handling

- A.** Materials must be delivered in manufacturer's original, unopened and undamaged containers with identification labels intact.
- B.** Store sheet goods upright on a clean, dry, flat surface protected from all possible damage and from exposure to harmful weather conditions. Store tiles on a clean, dry, flat surface, carefully protecting corners and edges from all possible damage and from exposure to harmful weather conditions.
- C.** Recommended environmental condition for storage is a minimum of 55°F (13°C).
- D.** Avoid storing materials for extended periods of time or additional material trimming may be required.
- E.** Material need not suffer damage during handling (i.e. edge chipping, excessive warping, etc.).

4. Examination

- A.** Ensure that concrete subfloors on or below grade are installed over a permanent effective vapor retarder, as per current versions of ASTM E1643 and ASTM E1745. The vapor retarder must be placed directly underneath the concrete slab, above the granular fill, as per Manufacturer's instructions. The vapor retarder must have a perm rating of 0.1 or less and must have a minimum thickness of 10 mils.
- B.** Installation to be carried out no sooner than the specified curing time of concrete subfloor (normal density concrete curing time is approximately 28 days for development of design strength). Refer to current version of ASTM F710.
- C.** Ensure that no concrete sealers or curing compounds have been applied to or mixed into the concrete.
- D.** Subfloor surface must be free of any paint, wax, oil, grease, sealer, curing compound, solvent or any other contaminants that may inhibit bond. All contaminants must be removed from the surface via mechanical abatement.

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- E.** Smooth, dense finish, highly compacted with a tolerance of 1/8'' in a 10 ft radius (3.2 mm in 3.05 m radius). Floor Flatness (FF) and Floor Levelness (FL) numbers are not recognized.
- F.** Moisture and alkalinity tests must be performed on all concrete substrates, under in-service conditions. It is recommended to turn on the HVAC unit prior to performing moisture testing, in order to ensure stable testing conditions and accurate results. The concrete's surface pH should be between 7 and 10. Relative humidity of the concrete slab must not exceed the tolerance of the adhesive specified, in accordance with ASTM F2170 (in situ probes). Moisture vapor emissions from the concrete slab must not exceed the tolerance of the adhesive specified, in accordance with ASTM F1869 (anhydrous calcium chloride).
- G.** If installing over wood subfloors, ensure exterior grade plywood with at least one good side, such as: APA (Engineered Wood Association) Exterior grade plywood (A-A Exterior, A-B Exterior or A-C Exterior) and CANPLY (Canadian Plywood Association) Exterior certified plywood (Canada: Grade G2S A-A or G1S A-C. USA: G2S A-A, A-B, B-B, or G1S A-C, B-C). There must be proper underfloor ventilation, plywood must be dry and should have a moisture content ranging between 6 and 12%, when measured with a quality wood moisture meter (electronic hygrometer).
- H.** Maintain a stable room and subfloor temperature within the recommended range of 65°F to 86°F (18°C to 30°C), 48 hours prior to installation, during the installation, and 48 hours after the installation. Recommended ambient humidity control level is between 35 to 55%.
- I.** Installation of Modern Wood Thistle flooring will not commence until the building is enclosed and all other trades have completed their work.

5. Preparation

Prepare concrete subfloor in accordance with Manufacturer's current printed Subfloor Preparation Guide.

6. Installation

Install Modern Wood Thistle goods in accordance with Manufacturer's current printed Installation Manual.

7. Repair

- A.** Repair material must be from the same dye lot as material supplied for initial installation.
- B.** Repairs are to be performed by qualified installers/technicians only.

8. Final Inspection

- A.** The Contractor shall give written notice at least three (3) days in advance of date on which project will be one hundred percent (100%) complete and ready for final

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inspection. Prior to final inspection date, the Contractor shall verify in writing that in the Contractor's best judgment no deficiencies exist.

- B.** The Contractor shall prepare a Punch List of deficiencies found on final inspection that does not prevent the building or area(s) within the building from being occupied. The Contractor shall correct the deficiencies within ten (10) days after the building or area(s) within the building has been occupied and submit a report of the corrections as a condition of final acceptance.

9. Cleaning

- A.** Always wait at least a minimum of 72 hours after the wood Thistle/Johnsite IQ flooring has been completely installed before performing initial maintenance.
- B.** Always maintain resilient athletic flooring according to Manufacturer's current maintenance instructions for specified product.

10. Protection

As needed, Modern Wood Thistle flooring can be protected with 1/8" Masonite during and after the installation, prior to acceptance by the Owner.

11. Warranty

- A.** Provide current standard warranty, as published by the manufacturer.
- B.** The Modern Wood Thistle flooring is warranted to be free from manufacturing defects for a period of three (3) years from the date of shipment from the manufacturer.

VIII. SCOPE OF WORK PART 7 – EXECUTION HOMOGENEOUS VINYL SHEET FLOORING / JOHNSITE IQ NATURAL 274 SHADOW CG, OR APPROVED EQUAL

1. Vinyl Floor Removal

Remove and dispose of all existing vinyl and materials to make subfloor acceptable for installation if applicable.

2. Examination

- A.** Examine substrates, with Installer present, for compliance with requirements for maximum moisture content and other conditions affecting performance of the work.
- B.** Verify that finishes of substrates comply with tolerances and other requirements specified in other Sections and that substrates are free of cracks, ridges, depressions, scale, and foreign deposits that might interfere with adhesion of resilient products.
- C.** Proceed with installation only after unsatisfactory conditions have been corrected.

3. Preparation

- A. Prepare substrates according to Johnsonite written instructions to ensure adhesion of Resilient Sheet Flooring.
1. Verify that substrates are dry and free of curing compounds, sealers, and hardeners.
 2. Remove substrate paint, coatings and other substances that are incompatible with adhesives or contain soap, wax, oil, solvents, or silicone, using mechanical methods recommended by manufacturer. Do not use solvents.
 3. Mechanically remove contamination on the substrate that may cause damage to the resilient flooring material. Permanent and non-permanent markers, pens, crayons, paint, etc., must not be used to write on the back of the flooring material or used to mark the substrate as they could bleed through and stain the flooring material.
 4. Prepare Substrates according to ASTM F 710 including the following:
 - i. Moisture Testing: Perform tests recommended by manufacturer. Proceed with installation only after substrates pass testing.
 - 1) Perform anhydrous calcium chloride test, ASTM F 1869. Results must not exceed 5 lbs. Moisture Vapor Emission Rate per 1,000 sq. ft. in 24 hours.
 - or—
 - 2) Perform relative humidity test using in situ probes, ASTM F 2170. Must not exceed 80%.
 - ii. A pH test for alkalinity must be conducted. Results should range between 7 and 9. If the test results are not within the acceptable range of 7 to 9, the installation must not proceed until the problem has been corrected.
 - iii. Alkalinity and Adhesion Testing: Perform tests recommended by manufacturer.
 5. Wood subfloors must have a minimum 18" (45.7 cm) of cross-ventilated space beneath the bottom of the joist.
 - i. The floor must be rigid, free of movement.
 - ii. Single wood and tongue and groove subfloors should be covered with ¼" (6.4 mm) or ½" (12.7 mm) APA approved underlayment plywood.

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- 1) Use ¼" (6.4 mm) thick underlayment panels for boards with a face width of 3" (76 mm) or less.
- 2) Use ½" (12.7 mm) thick underlayment panels for boards with a face width wider than 3" (76 mm).
- iii. Do not install over OSB (Oriented Strand Board), particle board, chipboard, lauan or composite type underlayments.
- iv. Fill cracks, holes, depressions and irregularities in the substrate with good quality Portland cement based underlayment leveling and patching compound and remove bumps and ridges to produce a uniform and smooth substrate.
- v. Floor covering shall not be installed over expansion joints.
- vi. Do not install resilient products until they are same temperature as the space where they are to be installed.
6. Move resilient products and installation materials into spaces where they will be installed at least 48 hours in advance of installation.
7. Sweep and vacuum clean substrates to be covered by resilient products immediately before installation.

4. Resilient Sheet Flooring Installation

- A.** Comply with manufacturer's written instructions for installing resilient sheet flooring.
Resilient Sheet Flooring:

1. Install with Johnsonite adhesive specified for the site conditions and follow adhesive label for proper use.
2. Install rolls in sequential order following roll numbers on the labels.
3. Reverse sheets unless instructed otherwise in Johnsonite Installation Instructions.
4. Roll the flooring in both directions using a 100 pound three-section roller.
5. Vinyl sheet flooring must be welded.

Note: It is recommended to heat weld seams to provide a more sterile and water tight seam.

6. Johnsonite Resilient Sheet Flooring may be flash coved.
 - i. Use Johnsonite CFS-00-A Cove Filler Strip.

Net fit flooring material into the appropriate Johnsonite cove cap.

5. Cleaning and Protection

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- A.** Comply with manufacturer's written instructions for cleaning and protection of resilient products.
- B.** Perform the following operations immediately after completing resilient product installation:
 - 1. Remove adhesive and other blemishes from exposed surfaces.
 - 2. Sweep and vacuum surfaces thoroughly.
 - 3. Damp-mop surfaces to remove marks and soil.
- C.** Protect resilient products from mars, marks, indentations, and other damage from construction operations and placement of equipment and fixtures during remainder of construction period.
 - 1. No traffic for 24 hours after installation.
 - 2. No heavy traffic, rolling loads, or furniture placement for 72 hours after installation.
- D.** Wait 72 hours after installation before performing initial cleaning.
- E.** A regular maintenance program must be started after the initial cleaning.

IX. EXHIBITS

By this reference, the following exhibits are incorporated herein:

- Exhibit 1 – I-Street Approximate Square Footage
- Exhibit 2 – Administration Building Interior Paint
- Exhibit 3 – Administration Concrete Masonry Unit Columns & Maintenance Strip
- Exhibit 4 – Asbestos Inspection Report
- Exhibit 5 – Deluxe Portable Toilet Features
- Exhibit 6 – Ground Level Office Specifications
- Exhibit 7 – Offsite Furniture

**BOARD OF DIRECTORS MEETING
DECEMBER 7, 2016**

ITEM No. F6

**CONTRACT No. MNT17-15
PAINT & CARPET REPLACEMENT & INSTALLATION**

EXHIBITS AVAILABLE UPON REQUEST

**ATTACHMENT C – GENERAL PROVISIONS
MNT17-15
PAINT AND CARPET REPLACEMENT AND INSTALLATION
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A. SCHEDULE OF VALUES

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Within 15 calendar days after "Notice to Proceed," the Contractor shall, upon request by Omnitrans, submit a Schedule of Values of the lump sum Bid entered on the Bid Form for all construction work. This Schedule of Values will form the basis for progress payments in accordance with these Specifications and shall show all of the major categories and subcategories of work and equipment requested by Omnitrans. Bonds and insurance costs will be identified as a separate line item. Such Schedule of Values shall not be required if Omnitrans, at its sole discretion, elects to pay the Contractor in lump sum within thirty (30) calendar days of receipt of proper invoice following the Contractor's satisfactory completion and Omnitrans' acceptance of all work.

B. PROGRESS PAYMENTS

1. Invoicing Instructions and Requirements:
 - a) Contractor shall invoice Omnitrans monthly based upon the Schedule of Values.
 - b) Invoices shall be separately numbered and sent to Omnitrans at the address listed below:

Omnitrans
1700 West Fifth Street
San Bernardino, California 92411
Attn: Accounts Payables
 - c) The Contractor is required to submit a Conditional Waiver and Release Upon Partial Payment with each invoice. The Contractor must submit the Contractor Final Release with the final invoice.
2. For capital projects, Omnitrans pays invoices on the first Thursday of each month.
 - a) Subject to verification of receipt, accuracy, and quality of orders, invoices received will be paid on the first Thursday of the month after the received date of an invoice.
 - b) If received within the 10 days prior to the first Thursday of the month, payment may be delayed to the following month.
3. In no event shall Omnitrans be obligated to make any payment on account of the Services which would cause the total amount paid to Contractor to exceed that not-to-exceed amount set forth above unless the Contract is amended through a Change Order.
4. For purposes of calculating the progress payments, Omnitrans will use the Schedule of Values submitted by the Contractor at the start of this Agreement. In no event will Omnitrans make a progress payment that, when added to the prior progress payments, amounts to a sum more than the Contractor's actual aggregate incurred expenses, adjusted to include Contractor's overhead and profit as allocated to such incurred expenses.
5. Omnitrans will pay only 95% of each progress payment amount as determined above, retaining 5% as part security for the fulfillment of this Agreement by the Contractor. Unless otherwise required by law, the final payment of five percent (5%) of the value of

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the total price of this Agreement, if unencumbered, shall be paid no later than sixty (60) days after the date of recordation of the Notice of Completion.

6. No progress payments will be made for materials not installed.
7. Progress payments made by Omnitrans in no way shall be deemed or construed as acceptance by Omnitrans of work or waiver by Omnitrans of any rights hereunder.
8. Acceptance by Contractor of the final payment shall constitute a waiver of all claims against Omnitrans arising from this Agreement.
9. The Contractor shall pay subcontractors, promptly upon receipt of each Omnitrans progress payment, the respective amounts allowed the Contractor on account of the work performed by subcontractors, to the extent of each such subcontractor's interest therein. Such payments to subcontractors shall be based on estimates made pursuant to this Agreement. Any diversion by the Contractor of payments received for prosecution of a contract, or failure to reasonably account for the application or use of such payments, constitutes ground for termination of the Contractor's control over the work and for taking over the work, in addition to disciplinary action by the Contractor's State License Board. The subcontractor shall notify, in writing, the Contractor's State License Board and Omnitrans of any payment less than the amount or percentage approved for the class or item of work as set forth in this Agreement.
10. In addition to other amounts properly withheld under this Agreement, Omnitrans shall withhold all legally required sums for, but not necessarily limited to, stop payment notices, labor and tax liens, etc.

C. FINAL INSPECTION AND ACCEPTANCE

Promptly after Substantial Completion has occurred, Contractor shall perform all Punch List Work, if any, which was deferred for purposes of Project Completion, and shall satisfy all of its other contractual obligations under the contract documents.

When the Contractor determines that the work is fully completed, including satisfactory completion of all inspections, tests, and required documentation, Punch List and clean-up items, Contractor shall give Omnitrans a written request for Final Acceptance within ten (10) days thereafter, specifying that the work is completed and the date on which it was completed.

Within thirty (30) days after receipt of the request for Final Acceptance from Contractor, Omnitrans will make a final inspection of the work and will either:

1. Reject the request for Final Acceptance, specifying the defective or uncompleted work; or
2. Issue a written Final Acceptance and record Notice of Completion with County Recorder.

Substantial Completion is defined herein as; In the opinion of Omnitrans, that Work or portion thereof that is sufficiently complete and in accordance with the Contract, that it can be utilized by Omnitrans for the purpose for which it was intended. A determination of Substantial Completion does not waive, but may not require the prior completion of minor items, which do not impair Omnitrans ability to safely occupy and utilize the Work for its

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intended purpose.

D. FINAL PAYMENT

1. After the filing of the Notice of Completion, Omnitrans will make a proposed final estimate, in writing, of the total amount payable to the Contractor, including therein an itemization of said amount, segregated as to contract item quantities, extra work and any other basis for payment, and shall also show therein all deductions made or to be made for prior payments and amounts to be kept or retained under the provisions of the contract. All prior estimates and payments shall be subject to correction in the proposed final estimate. Within 15 days after proposed final estimate has been submitted, Contractor shall submit to Omnitrans written approval of proposed final estimate and/or a written statement of all claims of the contract. No claim will be considered that was not included in written statement of claims, nor will any claim be allowed unless the Contractor has previously complied with the notice and protest requirements.
2. On the Contractor's approval, or if he files no claim within stated period, Omnitrans will issue a final written estimate, in accordance with the proposed final estimate submitted to the Contractor; and 35 days after the date of filing the Notice of Completion Omnitrans will pay the entire sum found to be due. Such final estimate and payment thereon shall be conclusive and binding against the Contractor on all questions relating to the amount of work done and the compensation payable therefore, except as otherwise provided.
3. If the Contractor within said period of 15 days files claims, Omnitrans will issue a semi-final estimate in lieu of the final estimate submitted to the Contractor; and 35 days after the date of filing of the Notice of Completion, Omnitrans will pay the sum found to be due. Such semi-final estimate and payment thereon shall be conclusive and binding against the Contractor on all questions relating to the amount of work done and the compensation payable therefore, except insofar as affected by the claims filed within the time and in the manner required hereunder and except as otherwise provided.
4. Upon final determination of any outstanding claims, Omnitrans shall then make and issue a final estimate in writing and within 30 days thereafter, Omnitrans will pay the entire sum, if any, found due. Such final estimate shall be conclusive and binding against the Contractor on all questions relating to the amount of work done and the compensation payable therefore, except as otherwise provided.

E. MODIFICATIONS IN THE SPECIFICATIONS AND SCOPE OF WORK

1. Modifications to the Specifications and or Scope of Work
 - a. Omnitrans may, from time to time, make changes to the Specifications and or Scope of Work under the Contract, through a Change Order.
 - b. A Change Order shall not modify the overall purpose of the Contract.
 - c. At any time during the term of the Contract, Omnitrans may order Additional Services to be performed by the Contractor by a Change Order.
 - d. *Additional Services* are defined as services that were not contained in the Contract and are determined by Omnitrans to be necessary, and where a

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reasonable relationship to the services originally described in the Contract exists.

- e. Contractor shall not be entitled to make any changes in the services or perform any Additional Services unless authorized, in advance, by written Change Order.
- f. Contractor shall continue performance of the Scope of Work as modified by the Change Order upon receipt of a Change Order approved by Omnitrans.
- g. Contractor and Owner hereby agree and acknowledge that execution of the Change Order constitutes a mutual accord and satisfaction as to the work covered hereby. Contractor specifically waives and releases: any and all claims; rights or interest; including, but not limited to, those for: impact; disruption; loss of efficiency; "ripple"; other extraordinary; or consequential costs, arising directly or indirectly out of the work described in this Change Order, except as specifically included herein.

2. Authorization of Additional Work

- a. Authorization to make changes to the Specifications and or Scope of Work under the Contract shall be completed through a written Change Order.

- b. Persons authorized to make those changes will exclusively be:

Contractor: the person whose duly authorized signature appears on the BID documents and has authority to legally bind the firm.

Omnitrans: CEO/General Manager.

- c. Either Omnitrans or Contractor may designate other persons as agreed upon in writing or as designated herein.
- d. For the purposes of this contract, temporary work ordered for special occasions that is not meant to affect the overall purpose and intent of this contract will be issued by Omnitrans under a separate contract and or purchase order. Any such additional work will be under the terms and conditions of that contract or purchase order, but may reference any portions of this contract.

3. Price Adjustments

- a. Any change in the contract that causes an increase or decrease in cost to Omnitrans, or the time required for the performance of the contract, must be approved as prescribed herein.
- b. An equitable adjustment in the compensation and schedule will be made upon an approved Change Order, which shall be incorporated, into the Contract by reference.
- c. Contractor shall be liable for all costs resulting from, and or for satisfactorily correcting, any specification change not properly ordered by written modification to the contract and signed by the Contracting Officer.
- d. Except as otherwise expressly provided in the Contract, when costs are a factor in any determination of a contract price adjustment, such costs shall be in

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accordance with the applicable cost principles of Subpart 31.2 of the Federal Acquisition Regulations (FAR) in effect at the onset of the Contract.

F. CLAIMS

1. In accordance with Public Contract Code Sections 20104 *et seq.* and other applicable law, public works claims of \$375,000 or less which arise between the Contractor and Omnitrans shall be resolved under the following statutory procedure unless Omnitrans has elected to resolve the dispute pursuant to Public Contract Code Section 10240 *et seq.*
2. **All Claims.** All claims shall be submitted in writing and accompanied by substantiating documentation. Claims must be filed on or before the date of final payment unless other notice requirements are provided in the Contract Documents. "Claim" means a separate demand by the claimant for (1) a time extension, (2) payment of money or damages arising from work done by or on behalf of the claimant and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled, or (3) an amount the payment of which is disputed by Omnitrans. The Contractor shall promptly comply with the Contract Documents in the performance of Work and/or the requests of Omnitrans even though a written claim has been filed. The Contractor and Omnitrans shall make good faith efforts to resolve any and all claims that may arise during performance of the Work covered by this Contract.
3. **Claims Under \$50,000.** Omnitrans shall respond in writing to the claim within 45 days of receipt of the claim, or, Omnitrans may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses or claims Omnitrans may have. If additional information is needed thereafter, it shall be provided upon mutual agreement of Omnitrans and the claimant. Omnitrans' written response shall be submitted 15 days after receiving the additional documentation, or within the same period of time taken by the claimant to produce the additional information, whichever is greater.
4. **Claims over \$50,000 but less than or equal to \$375,000.** Omnitrans shall respond in writing within 60 days of receipt, or, may request in writing within 30 days of receipt of the claim, any additional documents supporting the claim or relating to defenses or claims Omnitrans may have against the claimant. If additional information is needed thereafter, it shall be provided pursuant to mutual agreement between Omnitrans and the claimant. Omnitrans' response shall be submitted within 30 days after receipt of the further documents, or within the same period of time taken by the claimant to produce the additional information or documents, whichever is greater. The Contractor shall make these records and documents available at all reasonable times, without any direct charge.
5. The Contractor will submit the claim justification in the following format:
 - 1) Summary of claim merit and price, and Contract clause pursuant to which the claim is made.
 - 2) List of documents relating to claim

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- (a) Specifications
 - (b) Drawings
 - (c) Clarifications (Requests for Information)
 - (d) Schedules
 - (e) Other
- 3) Chronology of events and correspondence
 - 4) Analysis of claim merit
 - 5) Analysis of claim cost
 - 6) Analysis of time impact analysis in CPM format
 - 7) Cover letter and certification of validity of the claim
6. If the claimant disputes Omnitrans' response, or if Omnitrans fails to respond within the statutory time period(s), the claimant may so notify Omnitrans within 15 days of the receipt of the response or the failure to respond, and demand an informal conference to meet and confer for settlement. Upon such demand, Omnitrans shall schedule a meet and confer conference within 30 Days.
7. If following the meet and confer conference, the claim or any portion thereof remains in dispute, the claimant may file a claim pursuant to Government Code 900 et seq. and Government Code 910 et seq. For purposes of those provisions, the time within which a claim must be filed shall be tolled from the time the claimant submits the written claim until the time the claim is denied, including any time utilized for the meet and confer conference.

Submission of a claim, properly certified, with all required supporting documentation, and written rejection or denial of all or part of the claim by Omnitrans, is a condition precedent to any action, proceeding, litigation, suit, general conditions claim, or demand for arbitration by Contractor.

Claims submitted by the Contractor shall be accompanied by a notarized certificate containing the language listed below. Failure to submit the notarized certificate will be cause for denying the claim.

Certificate

Under the penalty of law for perjury or falsification with specific reference to the California False Claims Act, Government Code Section 12650 et. Seq., the undersigned,

(Name)

(Title)

(Company)

herby certifies that the claim for the additional compensation and time, if any, made herein for the work on this Contract is a true statement of the actual cost incurred and time sough, and is fully documented and supported under the Contract between the parties

Dated: _____

Signature: _____

NOTARY CERTIFICATION

STATE OF _____

}SS:

COUNTY OF _____

Subscribed and sworn to before me this _____ day of _____,
20____, by _____, proved to me on the basis of satisfactory evidence
to be the person(s) who appeared before me.

Signature of Notary

Public _____

Printed/typed name of Notary

Public _____

County of residence _____ Date commission expires

(SEAL)

PAINT AND CARPET REPLACEMENT AND INSTALLATION

G. ACCELERATION

1. Omnitrans reserves the right to accelerate the work of the Contract at any time during its performance. In the event that Omnitrans directs acceleration, such directive will be given to the Contractor in writing. The Contractor shall keep cost and other Project records related to the acceleration directive separately from normal Project cost records and shall provide a written record of acceleration costs to Omnitrans on a daily basis.
2. In the event that the Contractor believes that some action or inaction on the part of Omnitrans constitutes an acceleration directive, the Contractor shall immediately notify Omnitrans in writing that the Contractor considers the actions or inactions an acceleration directive. This written notification shall detail the circumstances of the acceleration directive. The Contractor shall not accelerate their work efforts until Omnitrans responds to the written notification. If acceleration is then directed or required by Omnitrans, all cost records referred to in section (1) shall be maintained by the Contractor and provided to Omnitrans on a daily basis.
3. In order to recover additional costs due to acceleration, the Contractor must document that additional expenses were incurred and paid by the Contractor. Labor costs recoverable will only be overtime or shift premium costs or the cost of additional laborers brought to the site to accomplish the accelerated work effort. Equipment costs recoverable will only be the cost of added equipment mobilized to the site to accomplish the accelerated work effort.

H. STOP PAYMENT NOTICES

Omnitrans, at its sole discretion, may, at any time, retain out of any amounts due the Contractor, sums sufficient to cover claims filed pursuant to Section 9530 et. seq. of the California Civil Code.

I. ORDER OF WORK

Contractor shall perform work hereunder at such places, and in such order or precedence, as may be determined necessary by the Engineer to expedite completion of the required work.

J. LABOR PROVISIONS

1. Prevailing Wages
 - a. Contractor shall comply with all applicable requirements of Division 2, Part 7, Chapter 1 of the Labor Code and all applicable federal requirements respecting prevailing wages. If there is a difference between the minimum wage rates predetermined by the Secretary of Labor and the wage rates determined by the Director of the Department of Industrial Relations (DIR) for similar classifications of labor, the Contractor and subcontractors shall not pay less than the higher wage rate. The DIR will not accept lower state wage rates not specifically included in the Federal minimum wage determination.
 - b. The Contractor and each subcontractor shall forfeit as a penalty to Omnitrans not more than Two Hundred Dollars (\$200.00) for each calendar day, or portion thereof, for

PAINT AND CARPET REPLACEMENT AND INSTALLATION

each worker paid less than the stipulated prevailing wage rate for any work done by him, or by any subcontract under him, in violation of the provisions of the Labor Code. The difference between such stipulated prevailing wage rate and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by the Contractor.

- c. The Contractor shall obtain a copy of the prevailing rates of per diem wages at the commencement of this Agreement from the website of the Division of Labor Statistics and Research of the Department of Industrial Relations located at www.dir.ca.gov/dlsr/. In the alternative, the Contractor may view a copy of the prevailing rates of per diem wages upon request to OMNITRANS. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification, or type of worker needed to perform work on the Project available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the Project Site. Contractor shall post, at appropriate conspicuous points on the Project Site, a schedule showing all determined general prevailing wage rates and all authorized deductions, if any, from unpaid wages actually earned.

2. Minimum Wages

- a. All mechanics and laborers employed or working upon the site of the work will be paid unconditionally, and not less often than once a week and without subsequent deduction or rebate on any account, the full amounts due at time of payment computed at wage rates not less than those specified in the General Wage Determinations referenced in this section regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics; and the wage determination decision shall be posted by the Contractor at the site of the work in a prominent place where it can be easily seen by the workers. For the purpose of this clause, contributions made or cost reasonably anticipated under the Labor Code of the State of California on behalf of laborers or mechanics are considered wages paid by such Laborers or mechanics. Also for the purpose of this clause, regular contributions made or costs incurred for more than a weekly period under plans, funds or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period.
- b. Omnitrans shall require that any class of laborers or mechanics, including apprentices and trainees, which is not listed in the General Wage Determinations and which is to be employed under this Contract, shall be classified conformably to such wage determinations. In the event Omnitrans does not concur in the Contractor's proposed classification or reclassification of a particular class of laborers and mechanics (including apprentices and trainees) to be used, the question, accompanied by the recommendation of Omnitrans, shall be referred to the State Director of Industrial Relations for determination.
- c. Omnitrans shall require, whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage and the Contractor is obligated to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof to be established. In the event the

PAINT AND CARPET REPLACEMENT AND INSTALLATION

interested parties cannot agree upon cash equivalent of the fringe benefit, the questions, accompanied by the recommendation of Omnitrans, shall be referred to the State Director of Industrial Relations for determination.

- d. All disputes concerning the payment of wages or the classification of workers under this Agreement shall be promptly reported to Omnitrans.

3. Deductions

In addition to amounts which Omnitrans may retain under other provisions of the Contract Documents Omnitrans may withhold payments due to Contractor as may be necessary to cover:

- a. Stop Payment Notice Claims.
- b. Defective work not remedied.
- c. Failure of Contractor to make proper payments to its subcontractors or suppliers.
- d. Completion of the Contract if there exists a reasonable doubt that the work can be completed for balance then unpaid.
- e. Damage to another Contractor or third party.
- f. Amounts which may be due Omnitrans for claims against Contractor.
- g. Failure of Contractor to keep the record ("as-built") drawings up to date.
- h. Failure to provide updates on the construction schedule and/or a recovery schedule if required.
- i. Site clean-up.
- j. Failure of the Contractor to comply with requirements of the Contract Documents, including but not limited to Contractor's failure to provide approved complete as-builts prior to filing of Notice of Completion.
- k. Liquidated damages.
- l. Legally permitted penalties.
 - i. Omnitrans may apply such withheld amount or amounts to payment of such claims or obligations at its discretion with the exception of subsections (a), (c) and (e) of this Article, which must be retained or applied in accordance with applicable law. In so doing, Omnitrans shall be deemed the agent of Contractor and any payment so made by the Contractor shall be considered as a payment made under contract by Omnitrans to Contractor and Omnitrans shall not be liable to Contractor for such payments made in good faith. Such payments may be made without prior judicial determination of the claim or obligations. Omnitrans will render Contractor a proper accounting of such funds disbursed on behalf of the Contractor.

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- ii. Upon completion of the Contract, Omnitrans will reduce the final Contract amount to reflect costs charged to the Contractor, back charges or payments withheld pursuant to the Contract Documents.
- iii. All amounts owing by Contractor to Omnitrans under the Contract shall earn interest from the date on which such amount is owing at the lesser of (i) 10% per annum or (ii) the maximum rate allowable under applicable Governmental Rules.

4. Payrolls and Basic Records

- a. Payrolls and basic records relating thereto will be maintained during the course of the work and preserved for a period of three (3) years thereafter for all laborers and mechanics working at the site of the work. Such records will contain the name, address and social security number of each such worker, the correct classification, rates of pay, daily and weekly number of hours worked, deductions made and actual wages paid.
- b. Pursuant to Labor Code Section 1776, the Contractor and each subcontractor shall maintain weekly certified payroll records showing the name, address, social security number, work classification, straight time and overtime hours paid each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed in connection with the work. Contractor shall certify under penalty of perjury that records maintained and submitted by Contractor are true and accurate. Contractor shall also require subcontractor(s) to certify weekly payroll records under penalty of perjury
- c. The Contractor will submit weekly a copy of all payrolls to Omnitrans as required in these "Labor Provisions" as well as to the Department of Industrial Relations (DIR). See subsection 17, Certified Payroll Compliance Monitoring, in this section. The copy shall be accompanied by a statement signed by the employer or its agent indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the State Director of Industrial Relations and that the classifications as set forth for each laborer or mechanic conform to the work performed. A submission of the "Weekly Statement of Compliance," which is required under this Contract, shall satisfy this requirement. The prime Contractor shall be responsible for the submission of copies of payrolls of all subcontractors. The Contractor will make the records required under the labor standard clauses of the contract available for the inspection by authorized representatives of Omnitrans, and will permit such representatives to interview employees during working hours on the job. In the event of noncompliance with the requirements of this Section, the Contractor shall have ten (10) days in which to comply subsequent to receipt of written notice specifying any item or actions necessary to ensure compliance with this section. Should noncompliance still be evident after such ten (10) day period, the Contractor shall, as a penalty to Omnitrans, forfeit One Hundred Dollars (\$100.00) for each day, or portion thereof, for each worker until strict compliance is effectuated. Upon the request of the DIR, such penalties shall be withheld from contract payments

5. Apprentices and Trainees

- a. Apprentices: Apprentices will be permitted to work at less than the predetermined rate for

PAINT AND CARPET REPLACEMENT AND INSTALLATION

the work they perform when they are employed and individually registered in a bona fide apprenticeship program as defined in section 1777.5 of the Labor Code of the State of California. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate who is not registered or otherwise employed as stated above, shall be paid the wage rate determined by the State Director of Industrial Relations for the classification of work he actually performed. The Contractor or subcontractor will be required to furnish to Omnitrans or the State Director of Industrial Relations written evidence of the registration of his program and apprentices as well as the appropriate ratios and wage rates (expressed in percentages of the journeyman's rate contained in the applicable wage determination).

- b. Trainees: Except as provided in 29 CFR 5.15, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to or individually registered in a program which has received prior approval, evidenced by formal certification, by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training. The ratio of trainees to journeymen shall not be greater than that permitted under the plan approved by the Bureau of Apprenticeship and Training. Every trainee must be paid at not less than the rate specified in the approved program for his level of progress. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Bureau of Apprenticeship and Training shall be paid not less than the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The Contractor or subcontractor will be required to furnish the contracting officer or a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the certification of his program, the registration of the trainees, and the ratios and wage rates prescribed in that program. In the event the Bureau of Apprenticeship and Training withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- c. Equal Employment Opportunity: The utilization of apprentices and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR, Part 30.

6. Compliance With Copeland Regulations (29 CFR, Part 3)

The Contractor shall comply with the Copeland Regulations (29 CFR, Part 3) of the Secretary of Labor which are herein incorporated by reference.

7. Contract Termination; Debarment

A breach of item 1 through 6 may be grounds for termination of the contract, and for debarment as provided in 29 CFR 5.6.

8. Overtime Requirements

No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or

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permit any laborer or mechanic in any work week in which he is employed on such work to work in excess of 8 hours a day or 40 hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 8 hours a day or 40 hours in such work week.

9. Violation; Liability for Unpaid Wages

Pursuant to section 1775 of the Labor Code of the State of California, in the event that any workman employed on this public works project is paid less than the amount specified in the General Prevailing Wage Determinations or less than is required, relative to overtime, the Contractor and any subcontractor responsible therefore shall be liable to the affected workman for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the State of California or Omnitrans for liquidated damages. Such liquidated damages shall be computed with respect to each individual workman found to be underpaid and shall be in the amount of \$50 per calendar day that a workman was underpaid.

10. Withholding for Liquidated Damages

Omnitrans may withhold or cause to be withheld, from any monies payable on account of work performed by the Contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for liquidated damages as provided in this section.

11. Final Labor Summary

The Contractor and each subcontractor shall furnish to Omnitrans, upon the completion of the contract, a summary of all employment, indicating for the completed project, the total hours worked and the total amount earned.

12. Final Certificate

Upon completion of the contract, the Contractor shall submit to Omnitrans, with the voucher for a final payment for any work performed under the contract, a concerning wages and classifications for laborers and mechanics, including apprentices and trainees employed on the project, in the following form:

The undersigned, Contractor on

(Contract No.)

hereby certifies that all laborers, mechanics, apprentices and trainees employed by the Contractor or by a subcontractor performing work under the contract on the project have been paid wages at rates not less than those required by the contract provisions, and that the work performed by each such laborer, mechanic, apprentice or trainee conformed to the classifications set forth in the contract or training program provisions applicable to the wage rate paid.

Signature and Title

13. Notice to Omnitrans of Labor Dispute

Whenever the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice thereof, including all relevant information with respect thereto, to Omnitrans.

14. Disputes Clause

- a. All disputes concerning the payment of prevailing wage rates or classifications shall be promptly reported to Omnitrans for its referral to DOT for decision or, at the option of Omnitrans, DOT referral to the Secretary of Labor. The decision of DOT or the Secretary of Labor, as the case may be, shall be final.
- b. All questions relating to the application or interpretation of the Copeland Act, the Contract Work Hours Standards Act, the Davis-Bacon Act, or Section 13 of the Act shall be sent to the Federal Transit Administration (FTA) for referral to the Secretary of Labor for ruling or interpretation, and such ruling or interpretation shall be final.

15. Convict Labor

In connection with the performance of work under this Contract, the Contractor agrees not to employ any person-undergoing sentence of imprisonment at hard labor. This does not include convicts who are on parole or probation.

16. Insertion in Subcontracts

The Contractor shall set forth in item 1 through 15 of this Section so that all of the provisions of this section will be inserted in all construction subcontracts of any tier, and such other clauses as the Government may by appropriate instructions require.

17. Certified Payrolls Compliance Monitoring

- a. This project is subject to monitoring and enforcement by the Department of Industrial Relations (DIR).
- b. This project is subject to prevailing wages.
- c. Contractors and subcontractors are obligated to submit certified payroll records utilizing the DIR's eCPR system. You can access additional information regarding the DIR's reporting system by using the following link: <http://www.dir.ca.gov/Public-Works/Certified-Payroll-Reporting.html>.

K. TIME EXTENSION/DELAYS

1. Contractor may be granted an extension of time for any portion of a delay in completion of the work due to acts of God, the public enemy, wars, civil unrest, fires, quarantine restrictions, or weather more severe than normal, providing that (1) the aforesaid causes

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were not foreseeable and did not result from an act or omission by the Contractor, (2) Contractor has taken reasonable precautions to prevent further delays owing to such causes, and (3) Contractor notifies Omnitrans in writing of the cause(s) for the delay within ten (10) days from the beginning of any such delay. No claims for additional compensation or damages for the foregoing delays shall be allowed to the Contractor, and the extension of time provided for herein shall be the sole remedy of the Contractor on account of any such delays.

2. An extension of time will not be granted for a delay described in the above paragraph(s) caused by a shortage of materials, except if materials are furnished by Omnitrans, unless the Contractor supplies Omnitrans with documented proof that every effort to obtain the materials from all known sources that (a) such materials could have been obtained only at exorbitant prices or (b) the prices were entirely inconsistent with current rates, taking into account the quantities; and (c) such facts could not have been known or anticipated at the time the Notice To Proceed was issued. Contractor shall also submit proof, that the inability to obtain such materials when originally planned, did in fact, cause a delay in completion of the work that could not be compensated for by revising the sequence of its operations. Only the physical shortage of material will be considered as a basis for an extension of time.
3. An extension of time for weather more severe than normal shall be granted only to the extent the work is actually delayed as determined by Omnitrans. Normal is defined as the monthly average of the temperature and rainfall wherein the work was performed for the prior 20 years before the execution of the contract.
4. In the event Contractor is actually and necessarily delayed by an act or omission on the part of Omnitrans, as determined by Omnitrans, the Contractor shall notify Omnitrans in writing within five (5) days from the beginning of any such delay. The time for completion of the work may be extended at the sole discretion of Omnitrans.
5. Within 30 days after the last day of delay, Contractor shall provide Omnitrans with detailed information concerning the circumstances of the delay, the number of days actually delayed, and the measures taken to minimize or prevent the delay. Failure to submit information shall be sufficient reason to deny the claim. Omnitrans shall ascertain the facts and the extent of the delay; and provide the Contractor its written findings, which will be final and conclusive. Except for the additional compensation for herein and except as provided in Public Contract Code Section 7102, Contractor shall have no claim for damages or compensation for any delay or hindrance.
6. No extension of time will be granted for any Omnitrans caused delay or delay as defined in which (a) the performance of work would have been concurrently delayed by Contractor induced causes, including but not limited to an act or omission of the Contractor, or (b) remedies are included or excluded by any other contract provision. Only the actual delay necessarily resulting from the causes specified in this Article shall be grounds for extension of time. Should the Contractor be delayed at any time for any period by two or more of the causes specified in this article, Contractor shall only be entitled to one time extension for the entire delay.
7. Any time extension granted to Contractor shall not release the Contractor or surety from

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its obligations. Work shall continue and be carried on in accordance with the contract provisions, unless formally suspended or terminated by Omnitrans.

L. NONDISCRIMINATION

During the performance of this Contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex or national origin. Such action shall include, but not be limited to employment; upgrading; demotion; transfer; recruitment or recruitment advertising; layoff; termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post, in conspicuous places available to the employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex or national origin.
3. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this Section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
5. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations or orders, this Contract may be canceled, terminated or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts or Federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order, of the Secretary of Labor, or as otherwise provided by law.
6. The Contractor will include the provisions of this Paragraph ("Nondiscrimination") in every subcontract or purchase order entered into under this Agreement unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such

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action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

7. No person employed on the work covered by this Agreement shall be discharged or in any way discriminated against because he has filed any complaints or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable hereunder to his employer.

M. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Contractor agrees to comply with and ensure compliance by all subcontractors with all requirements of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000d; 49 U.S.C. §5332 and Department of Transportation Regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act," 49 CFR Part 21.

N. GOVERNMENT INSPECTIONS

Omnitrans or Government representatives shall have access to the construction site and shall have the right to inspect all project works.

O. LICENSING, PERMITS AND INSPECTION COSTS

1. The Contractor warrants that it has all necessary licenses and permits required by the laws of the United States, State of California, the County of San Bernardino, the Local Jurisdictions, and all other appropriate governmental agencies, and agrees to maintain these licenses and permits in effect for the duration of the Agreement. Further, Contractor warrants that its employees, agents, and Contractors and subcontractors shall conduct themselves in compliance with such laws and licensure requirements including, without limitation, compliance with laws applicable to nondiscrimination, sexual harassment and ethical behavior throughout the duration of this Agreement. Contractor further warrants that it shall not retain or employ an unlicensed subcontractor to perform work on this Project. Contractor shall notify Omnitrans immediately and in writing of its employees', agents', Contractors' or subcontractors' inability to obtain or maintain, irrespective of the pendency of any appeal, any such licenses, permits, approvals, certificates, waivers, and exemptions. Such inability shall be cause for termination of this Agreement.
2. Contractor shall procure all permits and licenses and pay all charges, assessments and fees as may be required by the ordinances and regulations of the public agencies having jurisdiction over the areas in which the work is located, and shall comply with all the terms and conditions thereof and with all lawful orders and regulations of each such public agency relating to construction operations under the jurisdiction of such agency.
3. Contractor shall act as permittee on behalf of Omnitrans for coordination of all associated

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City of San Bernardino Building Department inspections.

P. HAZARDOUS SUBSTANCES**1. CAL-OSHA Requirements**

All flammable, corrosive, toxic or reactive materials being bid must have a complete CAL-OSHA Material Safety Data Sheet accompanying the submitted bid.

2. Notice of Hazardous Substances

Title 8, California Code of Regulations, Section 5194 (e)(c), states that the employer must inform any Contractor employers with employees working in the employer's workplace of the hazardous substances to which their employees may be exposed while performing their work. In compliance with this requirement, Omnitrans hereby gives notice to all Bidders that the following general categories of hazardous substances are present on Omnitrans' premises:

- a. adhesives, sealant, patching and coating products
- b. antifreeze, coolants
- c. cleaners, detergents
- d. paints, thinners, solvents
- e. pesticides, petroleum products (diesel and unleaded fuel, oil products)
- f. printing, photocopying materials
- g. propane welding materials/compressed gases (e.g., acetylene, oxygen, nitrogen)

More specific information may be obtained from Omnitrans Safety and Security Office at (909) 379-7125, and from Material Safety Data Sheets for individual products.

Q. MEDIA AND THE PUBLIC

Contractor shall immediately refer all inquiries from the news media or other public sources to Omnitrans' Project Manager, or designated representative, relating to this project.

R. COORDINATION AND ACCESS

Omnitrans may undertake or award other contracts for additional work at the project site. Contractor is responsible for coordinating its work with the work of other Contractors as appropriate. The Contractor acknowledges that they do not have any exclusive access to the site or other work areas. Omnitrans may require that certain facilities and areas be used concurrently by the Contractors and others. Contractor shall cooperate fully with Omnitrans Contractors/consultants that may be performing work in the construction area.

S. UTILITIES RELATED DELAYS

If, due to interruptions caused by the undocumented utilities, Contractor sustains loss which could not have been avoided by the judicious handling of forces, equipment and plant, there shall be paid to the Contractor that amount that Omnitrans may find to be a fair and reasonable compensation for the part of the Contractor's actual loss, that, in the opinion of

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Omnitrans was unavoidable, determined as follow: Compensation for idle time of equipment will be determined in the same manner as determinations are made for equipment used in the performance of extra work paid for on a force account basis per Section E, Modifications in the Specifications and Scope of Work, with the following exceptions:

1. The utility related delay factor for each classification of equipment shown in the Department of Transportation publication entitled Labor Surcharge And Equipment Rental Rates will be applied to that equipment rental rate.
2. The time for which the compensation will be paid will be the actual normal working time during which the delay condition exists, but in no case will exceed 8 hours in any one day.
3. The days for which compensation will be paid will be the calendar days, excluding Saturdays, Sundays and legal holidays, during the existence of the delay, except that when the rented equipment can be returned or used elsewhere on the project, then no payment will be made for utilities related delays.

Actual loss shall be understood to include no items of expense other than idle time of equipment and necessary payments for idle time of workers, and cost of extra moving of equipment.

T. UTILITIES AND SUBSURFACE STRUCTURES

1. Contractor shall protect from damage utility and other subsurface structures that are to remain in place, be installed, relocated or otherwise rearranged (as used herein, rearranged includes installation, relocation, alteration or removal).
2. The right is reserved to Omnitrans, or their authorized agents, to enter upon the site for the purpose of making those changes that are necessary for the rearrangement of their facilities or for making necessary connections or repairs to their properties. Contractor shall cooperate with forces engaged in this work and shall conduct operations in such a manner as to avoid any unnecessary delay or hindrance to the work being performed by the other forces. Wherever necessary, the work of Contractor shall be coordinated with the rearrangement of utility or other non-highway facilities, and Contractor shall make arrangements with the owner of those facilities for the coordination of the work.
3. Attention is directed to the possible existence of underground main or trunk line utilities not indicated on the plans or in the special provisions and to the possibility that underground main or trunk lines may be in a location different from that which is indicated on the plans or in the special provisions. Contractor shall ascertain the exact location of underground main or trunk lines whose presence is indicated on the plans or in the special provisions, the location of their service laterals or other appurtenances, and of existing service lateral or appurtenances of any other underground facilities which can be inferred from the presence of visible facilities such as buildings, meters and junction boxes prior to doing work that may damage any of the facilities or interfere with their service.
4. If Contractor cannot locate an underground utility whose presence is indicated on the plans or in the special provisions, the Contractor shall so notify Omnitrans in writing. If

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- the utility for which the notice is given is in a substantially different location from that indicated on the plans or in the special provisions, the additional cost of locating the utility will be paid for as extra per Section E, Modifications in the Specifications and Scope of Work.
5. If Contractor discovers underground main, trunk lines or other structures and utilities not indicated on the plans or in the special provisions, Contractor shall immediately give Omnitrans and the Utility Company written notification of the existence of those utilities. Such utilities shall be located and protected from damage as directed by Omnitrans, and the cost of that work will be paid for as extra work per Section E, Modifications in the Specifications and Scope of Work. Contractor shall, if directed by Omnitrans repair any damage which may occur to the main or trunk lines. The cost of that repair work, not due to the failure of the Contractor to exercise reasonable care, will be paid for as extra work per Section E, Modifications in the Specifications and Scope of Work. Damage due to Contractor's failure to exercise reasonable care shall be repaired at the Contractor's cost and expense.
 6. Where it is determined by Omnitrans that the rearrangement of an underground utility essential in order to accommodate the project work and the plans and specifications do not provide that the utility is to be rearranged, Omnitrans will provide for the rearrangement of the utility by other forces or the rearrangement shall be performed by Contractor and will be paid for as extra work per Section E, Modifications in the Specifications and Scope of Work.
 7. When ordered by Omnitrans in writing, Contractor shall rearrange any utility or other subsurface structures necessary to be rearranged as a part of the project work and that work will be paid for as extra work per Section E, Modifications in the Specifications and Scope of Work.
 8. Should Contractor desire to have any rearrangement made in any utility facility, or other improvement, for the Contractor's convenience in order to facilitate the Contractor's construction operations, which rearrangement is in addition to, or different from, the rearrangements indicated on the plans or in the special provisions, the Contractor shall make whatever arrangements are necessary with the owners of the utility or other subsurface structure for the rearrangement and bear all expenses in connection therewith.
 9. Contractor shall immediately notify Omnitrans of any delays to the Contractor's operations as a direct result of underground utilities or other structures which were not indicated on the plans or in the special provisions or were located in a position substantially different from that indicated on the plans or in the special provisions, (other than delays in connection with rearrangements made to facilitate the Contractor's construction operations or delays due to a strike or labor dispute). These delays will be considered utilities related delays within the meaning of Section S, Utilities Related Delays and compensation for the delay will be determined in conformance with the provisions in Section J, Labor Provisions. Contractor shall be entitled to no other compensation for that delay.

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U. LOCATION OF UNDERGROUND UTILITIES (OFFSITE WORK ONLY)

Contractor is required to obtain permits prior to start of excavation by contacting the appropriate permitting agencies at least 15 calendar days in advance. For the Offsite work scan the construction site with electromagnetic or sonic equipment, and mark the surface of the ground where existing underground utilities are discovered. Verify the elevations of existing piping, utilities, and any type of underground obstruction not indicated or specified to be removed but indicated or discovered during scanning in locations to be traversed by piping, ducts, and other work to be installed. Verify elevations before installing new work closer than nearest manhole or other structure at which an adjustment in grade can be made. Perform potholing to confirm location of all the utilities along the construction alignment prior to start of the construction. The Contractor is responsible for all costs associated with these investigations including the cost of equipment, labor and materials required for any confined space entry.

V. UNFORESEEN HAZARDOUS OR REGULATED MATERIALS

1. All known hazardous or regulated materials are indicated in the contract documents. If material that is not indicated in the contract documents is encountered that may be dangerous to human health upon disturbance during construction operations, stop that portion of work and notify Omnitrans immediately. Intent is to identify materials such as PCB, lead paint, mercury, petroleum products, and friable and non-friable asbestos. The handling, containment and disposal of hazardous and containment material shall be in accordance with applicable State, Federal, and local environmental laws and regulations.
2. Contractor shall immediately notify Omnitrans of any delays to the Contractor's operations as a direct result of Unforeseen Hazardous and Regulated Materials. These delays will be considered utilities related delays within the meaning of Section S, Utilities Related Delays and compensation for the delay will be determined in conformance with the provisions in Section J, Labor Provisions. Contractor shall be entitled to no other compensation for that delay.

W. CONTRACTOR'S OBLIGATIONS

1. General - Contractor shall furnish the following on the Project, in accordance with Omnitrans-furnished Contract Documents and all other requirements set forth in the Contract:
2. Construction Services – Contractor shall furnish labor, material and equipment necessary to construct the Project as designed in a timely manner, in accordance with all construction practices generally accepted as standards of the industry in the State of California, in a good and workmanlike manner, free from construction defects.
3. Compliance with Requirements – Contractor shall perform all services set forth in Paragraph entitled General Guidelines above (in this section), provide all materials and undertake all efforts necessary or appropriate (excluding only those materials, services and efforts that the Contract Documents specify will be furnished by Omnitrans or other persons) to construct the Project in accordance with the requirements of the Contract Documents, the Schedule, all applicable Laws, all Governmental Approvals, the

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Construction Documents provided to Omnitrans, and all other applicable safety, environmental and other requirements, and other physical limits resulting from constraints affecting the Project, so as to achieve Substantial Completion and Final Acceptance and to perform all required tests by the deadlines specified herein, and otherwise to do everything required by and in accordance with the Contract Documents.

4. Professional Qualifications – Contractor shall perform the Work under the supervision of persons licensed and certified to practice the applicable function/profession in the State of California, by personnel who are careful, skilled, experienced and competent in their respective trades or professions, who are professionally qualified to perform the Work in accordance with the Contract, and who shall assume professional responsibility for the accuracy and completeness of the Work prepared or checked by them.
5. Governing Dimensions – Before commencing any construction work, Contractor shall verify all governing dimensions at the Worksite, examine all adjoining work and activities that may have an impact on Work, and ensure that the Contract Documents (and any other documents related to the Work) accurately depict all governing and adjoining dimensions.
6. Scheduling – Contractor shall schedule and direct its work to provide an orderly work progression, achieve on-time completion of all Milestones set forth in the Schedule, and complete its work within the Contract Time. To accomplish this goal, Contractor shall furnish such employees, materials, facilities and Equipment, and work such hours (including extra shifts, overtime operations, Sundays and holidays), as may be necessary.
7. Means and Methods – Contractor shall be solely responsible for the performance of its Work in accordance with its own means, methods, sequences, and procedures, and for coordination of all portions of its Work in compliance with the Contract.
8. Performance During Disputes – At all times during the term hereof, including during any Dispute, Contractor shall perform as directed by Omnitrans, and shall comply with all provisions of the Contract.
9. Ascertaining Facts – Contractor shall be solely responsible for its failure to ascertain the facts and take the actions described, represented, warranted, and acknowledged in this Article, and no provision of this Contract shall be construed to relieve Contractor from responsibility for such failure.
10. Subcontractors & Suppliers – Contractor shall be responsible for the acts and omissions of its Subcontractors and Suppliers. Contractor agrees to bind every subcontractor to the terms of this Agreement as far as such terms are applicable to subcontractor's portion of the Work
11. Assistance to Omnitrans – Contractor shall provide such assistance as is reasonably requested by Omnitrans in dealing with any Government Entity, or in prosecuting and defending Environmental lawsuits in any and all matters relating to the Work. Such assistance may include providing information and reports regarding the Work, as well as executing declarations and attending meetings and hearings. In no event shall the Contractor be required to provide legal services.

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12. Cooperation – The Contractor will cooperate with Omnitrans and its Authorized Representative(s), in their review(s) and/or inspection(s) of any portion or phase of the Work, and other matters relating to the Work.
13. Mitigation – The Contractor will Mitigate Delay in all circumstances, to the extent reasonably possible, including the re-sequencing, reallocating or redeploying of its forces to other work, as appropriate.

X. CONTRACTOR'S REPRESENTATIONS, WARRANTIES AND COVENANTS

Contractor represents, warrants and covenants for the benefit of Omnitrans that:

1. Status – If it is a corporation, limited partnership, general partnership, and/or joint venture, it is duly organized, validly existing and in good standing under the Laws of its jurisdiction of formation, and has full power and authority to own and operate its business and properties and perform the Work within the State of California.
2. Contractor & Subcontractor Qualifications – It and all of its Subcontractors are, and will be and will remain, fully experienced and properly qualified to perform the Work, and are, and throughout the term of this Contract shall remain, properly licensed, equipped, organized and financed to perform the Work hereunder and shall perform it in accordance with the Contract and in accordance with professional standards of skill, care, and diligence adhered to by firms recognized for their expertise, experience and knowledge in performing Work of a similar nature.
3. Control of Employees and Subcontractors – It shall maintain complete control of its employees, and its Subcontractors and Suppliers of all tiers, and shall not assign or transfer Work from itself or any listed Subcontractor or Supplier to itself or any other Subcontractor or Supplier without the written consent of Omnitrans.
4. Review of Information and Inspection of Worksites – It has, in accordance with prudent and generally accepted engineering and construction practices:
 - a. Reviewed all of the information provided in the Contract (including reports provided by Omnitrans);
 - b. Inspected and evaluated the Worksite and surrounding locations to the extent the Contractor deems necessary or advisable for performing all portions/phases of the Work under the Contract. These inspections and evaluations include without limitation:
 - 1) The character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the Worksite, including review of the Contract Documents provided by Omnitrans.
 - 2) Conditions bearing upon transportation, disposal, handling, and storage of materials, Goods, and Equipment;

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- 3) The availability of labor, water, electric power, and roads;
 - 4) Uncertainties of weather, or physical conditions at the site;
 - 5) The conformation and conditions of the ground;
 - 6) The character of Equipment and facilities needed preliminary to and during Work performance; and
 - 7) Conditions bearing upon security and protection of material, Goods, Equipment, and Work in progress.
5. Physical Requirements – As a result of its inspection and examination of the Worksite, and other related and surrounding sites and conditions, it is familiar with and accepts the physical requirements of the Work.
 6. Feasibility – As a result of its review of all the information and its inspection and examination of the Worksite, it has evaluated the feasibility of performing the Contract within the Contract Time and for the Total Contract Price, and has reasonable grounds for believing and does believe that such performance, including achievement of Substantial Completion of the Project within the Contract Time, for the Total Contract Price is feasible and practicable.
 7. Legal Proceedings – There are no existing or threatened legal proceedings against Contractor that would have an adverse effect on its ability to perform its obligations under the Contract, its financial condition or its operations.
 8. Governmental Approvals – Based upon its review of the Contract Documents, it shall be able to obtain and keep in effect throughout the Contract Time all Governmental Approvals the Contractor is obligated to obtain in accordance with the Contract.
 9. Difficulty and Cost of Work – It has estimated the difficulty and cost of successfully performing the Work, and based upon that estimate has concluded that it can successfully perform the Work at the Total Contract Price.
 10. Non-Debarment: In accordance with the provisions of the California Labor Code, Contractors or subcontractors may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant section 1777.1 or section 1777.7 of the California Labor Code. Any contract on a public works project entered into between a Contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid to a debarred subcontractor by the Contractor for the Project shall be returned to Omnitrans. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the Project.
 11. Non-Discrimination: Contractor shall comply with all applicable federal, state, and local laws, rules, and regulations pertaining to non-discrimination, including but not limited to, Section 1735 of the California Labor Code and Section 12940 of the

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California Government Code. The Contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of Title 49 CFR (Code of Federal Regulations) part 26 in the award and administration of US DOT assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate. Each subcontract signed by the bidder must include this assurance.

12. Conflicts of Interest/ Criminal Activities: A Contractor shall not permit any official, officer or employee of Omnitrans during his tenure, or for one year thereafter, to have any interest, direct or indirect, in this Contract or the proceeds thereof. However, this subsection shall not be construed to extend to this Contract if made with a corporation for its general benefit. Contractor, its employees, its Subcontractors or their employees shall not provide or offer to provide any campaign contribution to any member of Omnitrans in violation of California Government Code Section 84308. Further, to Contractor's knowledge, neither Contractor nor any of its employees nor its Subcontractors nor their employees has either promised or provided a campaign contribution of \$250 or more to any member of Omnitrans within 12 months prior to the award of this Contract or any subcontract of this Contract, unless an explicit statement to the contrary accompanies Contractor's bid. In no event shall gratuities (in the form of entertainment, gifts, or otherwise) be offered promised or given by Contractor, or any agent or representative of Contractor, to any official, officer or employee of Omnitrans or its Authorized Representative. Contractor or his employees shall not enter into any Contract involving not be considered a conflict under Sections 1090 et seq. and 87100 et seq. of the Government Code of the State of California. In the event Contractor, or any of its officers, partners, principals or employees are convicted of any crime arising out of, or in connection with, the work to be done or payment to be made under this Contract, this Contract in whole or any part thereof may, at the discretion of Omnitrans, be terminated for default. Any violation of the terms of this Section by Contractor may be considered a default of the Contract by Omnitrans and may result in termination of same pursuant to applicable provisions of this Contract. In the event of such a termination, Omnitrans shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of a breach of the Contract by Contractor. Rights and remedies provided to Omnitrans by this Section are in addition to any additional rights and remedies provided by law or under the Contract services or property with a person or business prohibited from transacting such business with Omnitrans pursuant to Sections 1090 et seq. and 87100 et seq. of the Government Code of the State of California. To Contractor's knowledge, no Board member, officer, or employee of Omnitrans has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, or in the business of Contractor, unless an explicit statement to the contrary accompanies Contractor's bid. If any such transaction comes to the knowledge of Contractor at any time, a full and complete disclosure of such information shall be made to Omnitrans, even if such interest would

Y. INDEPENDENT CONTRACTOR

1. Contractor, and its Subcontractors and Suppliers of any tier, are independent Contractors, and nothing in this Contract shall be construed to create the relationship of agent, servant,

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employee, partnership, joint venture, or other association as between Contractor and Omnitrans. The employees and agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.

2. Contractor, as an independent Contractor, shall have responsibility for and control over the details and means for performing the Work, provided that Contractor is in compliance with the terms of this Contract. Anything in this Contract that may appear to give Omnitrans the right to direct Contractor as to the details of the performance of the Work, or to exercise a measure of control over Contractor, shall mean that Contractor shall follow the desires of Omnitrans only as to the intended results of the Work.

Z. COMPENSATION AND BENEFITS

Contractor shall be solely liable and responsible for providing all compensation and benefits to, or on behalf of, all persons performing Work pursuant to this Contract. Omnitrans will have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of Contractor.

AA. WORKERS' COMPENSATION INSURANCE AND LIABILITY

If Contractor employs any person to perform work in connection with this Contract, Contractor shall procure and maintain at all times during the performance of such work Workers' Compensation Insurance in conformance with the laws of the State of California and Federal laws where applicable. Employers' Liability Insurance shall not be less than \$1,000,000 per accident or disease. Prior to execution of this Contract by any such employee, Contractor shall deliver to Omnitrans a Certificate of Insurance that shall stipulate that 30 days' advance written notice of cancellation, non-renewal or reduction in limits shall be given to Omnitrans

BB. CONTRACTOR'S REPRESENTATIVE, ORGANIZATION AND PERSONNEL

Before starting any Work, the Contractor shall submit for Engineer review and acceptance, an organization chart showing the proposed organization established by the Contractor for the performance of the Work, including:

- a. Lines of authority, responsibility, and communication;
- b. Office organizations, if any; and
- c. Names, titles, and functions of all the Contractor's key personnel.

CC. SUPERINTENDENT

1. The Contractor shall designate and keep a competent superintendent on the work at all times during its progress. The superintendent will be the Contractor's representative at the site and shall have authority to act on behalf of the Contractor. Qualifications and experience shall include:
 - a. Demonstrated ability to work safely and supervise individuals in safe work.

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- b. Previous experience supervising and planning work activities of foremen and crews.
 - c. Ability to read and understand construction plans.
- 2. The Superintendent must be:
 - a. Able to respond immediately to emergency or problem calls, 7 days a week, 24 hours a day.
- 3. The Superintendent shall manage and directly oversee the safety, condition, and quality of work that has been modified by the Contractor and shall direct corrective and maintenance measures to keep the site operating safely.

DD. CHANGE IN CONTRACTOR'S REPRESENTATIVE AND KEY PERSONNEL

The Contractor shall secure the prior written acceptance of Engineer for any change or reassignment of the Contractor's Representative(s) and other key personnel, submitting written documentation of the new individuals' qualifications. The Contractor shall not reassign key personnel to other projects until a satisfactory replacement has been approved by Engineer.

EE. REMOVAL OF CONTRACTOR PERSONNEL

Engineer may require the Contractor to remove any person assigned by the Contractor or by any Subcontractor or Supplier from the Project performing on the Project, if the Engineer considers such removal in the best interest of Omnitrans and the Work. The Engineer's decision to require Contractor to remove any Contractor personnel, including Contractor's Representative, shall be final and binding on the Contractor. Upon such direction, Contractor shall remove the person(s) and resolve all employment or contractual issues at no cost or expense to, and shall fully indemnify, Omnitrans.

FF. TRENCHES

1. Trenches Five Feet or More in Depth. The Contractor shall submit to Omnitrans, in advance of excavation, a detailed plan showing the design of shoring, bracing, sloping or other provisions to be made for worker protection from the hazard of caving ground during the excavation of any trench or trenches five feet or more in depth. If the plan varies from shoring system standards, the plan shall be prepared by a registered civil or structural engineer. The plan shall not be less effective than the shoring, bracing, sloping, or other provisions of the Construction Safety Orders, as defined in the California Code of Regulations.
2. Excavations Deeper than Four Feet. If work under this Contract involves digging trenches or other excavation that extends deeper than four feet below the surface, Contractor shall promptly, and before the following conditions are disturbed, notify Omnitrans, in writing, of any:
 - a. Material that the Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class

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I, Class II, or Class III disposal site in accordance with provisions of existing law.

- b. Subsurface or latent physical conditions at the Site differing from those indicated.
 - c. Unknown physical conditions at the Site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.
3. Omnitrans shall promptly investigate the conditions, and if it finds that the conditions do so materially differ, or do involve hazardous waste, and cause a decrease or increase in Contractor's cost of, or the time required for, performance of any part of The Work, shall issue a change order under the procedures described in the Contract Documents.
 4. In the event that a dispute arises between Omnitrans and the Contractor as to whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of The Work, the Contractor shall not be excused from any scheduled completion date provided for by the Contract, but shall proceed with all Work to be performed under the Contract. Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the parties.

GG. SANITARY FACILITIES

Contractor shall provide sanitary temporary toilet buildings for the use of all workers. All toilets shall comply with local codes and ordinances. Toilets shall be kept supplied with toilet paper, hand sanitizers and shall have workable door fasteners. Toilets shall be serviced no less than once weekly and shall be present in a quantity of not less than 1 per 20 workers as required by CAL-OSHA regulation. The toilets shall be maintained in a sanitary condition at all times. Use of toilet facilities in The Work under construction shall not be permitted. Any other Sanitary Facilities required by CAL-OSHA shall be the responsibility of the Contractor.

HH. AIR POLLUTION CONTROL

Contractor shall comply with all air pollution control rules, regulations, ordinances and statutes. All containers of paint, thinner, curing compound, solvent or liquid asphalt shall be labeled to indicate that the contents fully comply with the applicable material requirements.

II. CLEAN UP

1. Contractor at all times shall keep premises free from debris such as waste, rubbish, and excess materials and equipment. Contractor shall not store debris under, in, or about the premises. Upon completion of Work, Contractor shall clean the interior and exterior of the building or improvement including fixtures, equipment, walls, floors, ceilings, roofs, window sills and ledges, horizontal projections, and any areas where debris has collected so surfaces are free from foreign material or discoloration. Contractor shall clean and polish all glass, plumbing fixtures, and finish hardware and similar finish surfaces and equipment and Contractor shall also remove temporary fencing, barricades, planking and construction toilet and similar temporary facilities from Site. Contractor shall also clean all buildings, asphalt and concrete areas to the degree necessary to remove oil, grease, fuel, or other stains caused by Contractor operations or equipment.

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2. Contractor shall fully clean up the Site at the completion of the Work. If the Contractor fails to immediately clean up at the completion of the Work, Omnitrans may do so and the cost of such clean up shall be charged back to the Contractor.

JJ. OCCUPANCY

Omnitrans reserves the right to occupy or utilize any portion of the Work at any time before completion, and such occupancy or use shall not constitute Acceptance of any part of Work covered by this Contract. This use shall not relieve the Contractor of its responsibilities under the Contract.

KK. STATE LICENSE BOARD NOTICE

Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against Contractors if a complaint regarding a patent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years of the date of the alleged violation. Any questions concerning a Contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826.

LL. WAIVER

No provision of these Contract Documents shall be deemed waived by either party unless such waiver shall be expressly specified in writing, regardless of the actions or inaction of the parties.

MM. MISCELLANEOUS

These Contract Documents shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of these Contract Documents, the action shall be brought in a state or federal court situated in the County of San Bernardino, State of California.

NN. INTEGRATION

No oral order, objection, direction, claim or notice by any party or person shall affect or modify any of the terms or obligations contained in the IFB.

OO. SCHEDULE OF WORK

1. Normal hours of work shall be between the hours of 7:00 a.m. and 5:00 p.m. Other hours, such as weekends and holidays, are permissible provided prior authorization has been granted by Omnitrans, Project Manager (s).
2. Contractor shall submit a Schedule of Work to Omnitrans' Project Manager as follows:
 - a. Submit within five (5) days after the Notice To Proceed date.

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- b. Show all major elements of the work and their duration and interrelationships; showing the proposed dates of commencement and completion.
 - c. Submit a conceptual schedule with bid.
3. If any activity falls behind schedule, Contractor shall regain the time lost at its own cost and expense.
 4. Omnitrans requires that the successful contractor perform the work that will interfere with Omnitrans' Operations, including electrical, water, natural gas, or sewer connection work, during non-business hours. These hours will be limited to Saturday evenings starting at 9:00pm and going through until Sunday morning at 6:00am.

PP. EXAMINATION OF WORK SITE

Bidder shall visit and become acquainted with the work site and the conditions thereof to fully understand the scope of work, difficulties and restrictions attending the execution of the work under contract.

QQ. OBSTRUCTIONS

The Contractor shall remove and dispose of all structures, or other obstructions of any character necessary to accommodate the work. Where such obstructions consist of improvements not required by law to be removed by Omnitrans, improvements shall be removed, maintained, and permanently replaced by the Contractor at his expense except as otherwise specifically provided in the Contract.

RR. QUALITY OF THE WORK**1. AUTHORITY OF THE DIRECTOR OF MAINTENANCE**

The Director of Maintenance, and/or his designee, shall decide any and all questions which may arise as to the interpretation of the plans and specifications and shall have authority to disapprove or reject materials and equipment furnished and work performed which, in his opinion, is not in accordance with the Contract.

2. SUPPLEMENTAL DRAWINGS

- a) The plans may be supplemented by such drawings as are necessary to better define the work. All such drawings delivered to the Contractor by the Project Manager shall be deemed written instructions to the Contractor. If the Contractor believes that any supplemental drawings call for changes in the work for which the contract amount or time for completion should be changed, he shall not proceed with the changes in the work so called for and shall within seven days of the receipt of the supplemental drawings notify the Project Manager in writing of his estimate of the changes in the contract amount and time for completion he believes to be appropriate.
- b) No payment for changes in the work will be made and no change in the time for completion by reason of changes in the work will be made, unless the changes are covered by a written change order approved by Omnitrans in advance of the Contractor's proceeding with the changed work.

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3. CONFORMITY WITH CONTRACT DOCUMENTS

- a) The work shall conform to the lines, grades, dimensions, tolerances, and material and equipment requirements shown on the plans or set forth in the specifications. Although measurement, sampling, and testing may be considered evidence as to such conformity, the Project Manager shall be the sole judge as to whether the work or materials deviate from the plans and specifications, and his decision as to any allowable deviations therefore shall be final.
- b) If specific lines, grades, and dimensions are not shown on plans, those furnished by the Project Manager shall govern.

4. MANUFACTURER'S INSTRUCTIONS

All materials and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned in accordance with the instructions of the applicable manufacturer, fabricator, supplier, or distributor, except as otherwise specifically provided in the Contract.

SS. SUPERVISION AND SUPERINTENDENCE

- 1. The Contractor shall supervise and direct the work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the work in accordance with the Contract. The Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction, but the Contractor shall not be solely responsible for the negligence of others in the design or selection of a specific means, method, technique, sequence, or procedure of construction which is indicated in and required by the Contract except as otherwise provided.
- 2. The Contractor shall be responsible to see that the completed work complies with the Contract.
- 3. The Contractor shall designate and keep a competent superintendent on the work at all times during its progress who shall not be replaced without written notice to the Project Manager. The superintendent will be the Contractor's representative at the site and shall have authority to act on behalf of the Contractor. All communications given to the superintendent shall be as binding as if given to the Contractor. During periods when the work is suspended, the Contractor shall make appropriate arrangements for any emergency work, which may be required.
- 4. Whenever the superintendent is not present on any particular part of the work where the Project Manager may desire to inform the Contractor relative to interpretation of the plans and specifications or to disapproval or rejection of materials or work performed, the Project Manager may so inform the foreman or other worker in charge of the particular part of the work in reference to which the information is given. Information so given shall be as binding as if given to the superintendent.
- 5. All equipment, materials, and supplies to be incorporated in the work shall be new, unless otherwise specified. All equipment, materials, and supplies shall be produced in a good and workmanlike manner. When the quality of a material, process, or article

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is not specifically set forth in the plans and specifications, the best available quality of the material, process, or article shall be provided.

TT. CONTRACTOR'S RESPONSIBILITY FOR THE WORK

1. In the event any hazardous materials, including but not limited to asbestos, are utilized in construction or hazardous materials are otherwise encountered during construction, the Contractor shall take all appropriate precautions to protect persons and property and shall comply with all applicable regulations for the installation and handling of such hazardous materials. The Contractor is solely responsible for protection of persons and property that could be affected by construction and the Contractor's handling of such materials.
2. Until the acceptance of the work, the Contractor shall have the responsible charge and care of the work and of the materials to be used therein (including materials for which he has received partial payment or materials which have been furnished by the Omnitrans) and shall bear the risk of injury, loss, or damage to any part thereof by the action of the elements or from any other cause, whether arising from the execution or from the non-execution of the work.
3. The Contractor shall rebuild, repair, restore, and make good all injuries, losses, or damages to any portion of the work or the materials occasioned by any cause before its completion and acceptance and shall bear the expense thereof. Where necessary to protect the work or materials from damage, the Contractor shall, at his expense, provide suitable drainage and erect such temporary structures as are necessary to protect the work or materials from damage. The suspension of the work or the granting of an extension of time from any cause whatever shall not relieve the Contractor of his responsibility for the work and materials as herein specified.
4. In an emergency affecting the safety of life or property, including adjoining property, the Contractor, without special instructions or authorizations, shall act at his discretion to prevent such threatened loss or injury.
5. Notwithstanding the foregoing provisions of this clause, the Contractor shall not be responsible for the cost of repairing or restoring damage to the work, which damage is determined to have been proximately caused by an Act of God, in excess of 5 percent of the contracted amount, provided that the work damaged is built in accordance with accepted and applicable building standards and the plans and specifications. For the purposes of this paragraph, "Acts of God" shall include the following occurrence or conditions and effect: earthquakes in excess of a magnitude of 3.5 on the Richter scale.

UU. PRESERVATION OF PROPERTY

1. The Contractor shall exercise due care to avoid injury to existing improvements or facilities, utility facilities, adjacent property, and trees and shrubbery that are not to be removed.
2. All trees, shrubbery, and landscaping that are not to be removed, and pole lines, fences, signs, survey markers and monuments, buildings and structures, conduits, pipelines under or above ground, sewer and waterlines, all highway or street facilities, and any other improvements or facilities within or adjacent to the work shall be

PAINT AND CARPET REPLACEMENT AND INSTALLATION

protected from injury or damage, and the Contractor shall provide and install suitable safeguards to protect such objects from injury or damage. If such objects are injured or damaged by reason of the Contractor's operation, they shall be replaced or restored at the Contractor's expense to a condition as good as when the Contractor entered upon the work or as good as required by the plans and specifications if any such objects are a part of the work being performed.

3. The fact that any such pipe or other underground facility is not shown on the plans shall not relieve the Contractor of his responsibility under this clause.
4. In addition to any requirements imposed by law, the Contractor shall shore up, brace, underpin, and protect as may be necessary, all foundations and other parts of all existing structures adjacent to and adjoining the site of the work which are in any way affected by the excavations or other operations connected with the performance of the work. Whenever any notice is required to be given by Omnitrans or the Contractor to any adjacent or adjoining landowner or other party before commencement of any work, such notice shall be given by the Contractor.
5. In an emergency affecting the safety of life or property, including adjoining property, the Contractor, without special instructions or authorizations, shall act at his discretion to prevent such threatened loss or injury.

VV. REGIONAL NOTIFICATION CENTER CONTACT

1. Contractor, except in an emergency, shall contact the appropriate regional notification center at least two working days prior to commencing any excavation if the excavation will be conducted in an area or in a private easement which is known, or reasonably should be known, to contain subsurface installations other than the underground facilities owned or operated by the Owner, and obtain an inquiry identification number from that notification center. No excavation shall be commenced and carried out by the Contractor unless such an inquiry identification number has been assigned to the Contractor or any subcontractor of the Contractor and Omnitrans has been given the identification number by the Contractor.
2. Emergency shall be defined as a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. Emergency includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage (Government Code Section 4216).
3. Subsurface installation means any underground pipeline, conduit, duct, wire, or other structure operated or maintained in or across a public street or public right-of-way (Government Code Section 4216).

WW. WARRANTY OF TITLE

No materials, supplies, or equipment for the work under this contract shall be purchased subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest therein or any part thereof is retained by the seller or supplier. The Contractor warrants clear and good title to all materials, supplies, and equipment installed and incorporated in the work and agrees upon completion of all work to deliver the premises,

PAINT AND CARPET REPLACEMENT AND INSTALLATION

together with all improvements and appurtenances constructed or placed thereon by him, to Omnitrans free from any claims, liens, encumbrances, or charges and further agrees that neither he nor any person, firm, or corporation furnishing any material or labor for any work covered by the contract shall have any right to a lien upon the premises or any improvement or appurtenance thereon, provided that this shall not preclude the Contractor from installing metering devices or other equipment of utility companies or of municipalities, the title of which is commonly retained by the utility company or the municipality. Nothing contained in this clause, however, shall defeat or impair the right of such persons furnishing materials or labor under any bond given by the Contractor for their protection or any right under any law permitting such persons to look to funds due the Contractor in the hands of Omnitrans. The provisions of this clause shall be inserted in all subcontracts and material contracts, and notices of its provision shall be given to all persons furnishing materials for the work when no formal contract is entered into for such materials.

XX. PROPERTY RIGHTS IN MATERIALS

1. Nothing in the contract shall be construed as vesting in the Contractor any right of property in the materials used after they have been attached or affixed to the work or the soil, or after payment has been made for materials delivered to the site of the work, or stored subject to or under the control of Omnitrans. All such materials shall become the property of Omnitrans upon being so attached or affixed or upon payment for materials delivered to the site of the work or stored subject to or under the control of Omnitrans.
2. Soil, stone, gravel, and other materials found at the site of the work and which conform to the plans and specifications for incorporation into the work may be used in the work. No other use shall be made of such materials except as may be otherwise described in the plans and specifications.

YY. MUTUAL RESPONSIBILITY OF CONTRACTORS

1. Nothing in the contract shall be interpreted as granting to the Contractor exclusive occupancy of the site of the project. The Contractor must ascertain to his own satisfaction the scope of the project and the nature of any other contracts that have been or may be awarded by Omnitrans in the construction of the project, to the end that the Contractor may perform this contract in the light of such other contracts, if any.
2. The Contractor shall not cause any unnecessary hindrance or delay to any other Contractor working on the project. If the performance of any contract for the project is likely to be interfered with by the simultaneous performance of some other contract or contracts, the Project Manager shall decide which Contractor shall cease work temporarily and which Contractor shall continue or whether the work under the contracts can be coordinated so that the Contractors may proceed simultaneously. On all questions concerning conflicting interest of Contractors performing related work, the decision of the Project Manager shall be binding upon all Contractors concerned and Omnitrans, the Project Manager, and their Contractors shall not be responsible for any damages suffered or extra costs incurred by the Contractor resulting directly or indirectly from the award or performance or attempted performance of any other

PAINT AND CARPET REPLACEMENT AND INSTALLATION

contract or contracts on the project or caused by a decision or omission of the Project Manager respecting the order of precedence in the performance of the contracts.

3. If through acts of neglect on the part of the Contractor, any other Contractor or any subcontractor shall suffer loss or damage on the work, the Contractor agrees to settle with such other Contractor or subcontractor by agreement or arbitration, if such other Contractor or subcontractor will so settle. If such other Contractor or subcontractor shall assert any claim against Omnitrans, the Project Manager, or their Contractors or any of their directors, officers, employees, or agents on account of any damage alleged to have been so sustained, Omnitrans shall notify the Contractor who shall hold harmless, indemnify, and defend Omnitrans, the Project Manager, and their Contractors, and each of their directors, officers, employees, and agents against any such claim, including all attorneys' fees and any other costs incurred by the indemnified parties relative to any such claim.

ZZ. ASSIGNMENT OF ANTI-TRUST ACTIONS

1. In entering into a public works contract or subcontract to supply goods, services, or materials pursuant to a public works contract, the Contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2 [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the Contractor, without further acknowledgment by the parties.
2. In submitting a bid, the bidder offers and agrees that if the bid is accepted, it will assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2 [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the awarding body pursuant to the bid. Such assignment shall be made and become effective at the time the awarding body tenders final payment to the bidder.

AAA. EXISTING CONDITIONS

1. Drawings, if any, show existing conditions as supposed or believed. Drawings are based on the best evidence and information available, but no warranty is thereby expressed or implied that such conditions actually exist.
2. Omnitrans and any of its Contractors shall not be liable for any loss sustained by Contractor as a result of any variance between existing conditions as indicated on the plans and the actual conditions revealed during the progress of the work, provided that the Contractor should have reasonably known of or identified the existing condition.

BBB. WARRANTY OF SCOPE OF WORK AND FIRM FIXED PRICE

1. Contractor represents and warrants that in setting the Firm Fixed Price herein, that:

PAINT AND CARPET REPLACEMENT AND INSTALLATION

- a) Contractor has done so after a thorough review of the description of work, plans, drawings and specifications;
 - b) Contractor deems that the aforementioned documents are sufficiently complete to enable Contractor to establish the Firm Fixed Price set forth herein;
 - c) Contractor deems the contract price is adequate to provide all the necessary labor, service, equipment or material to complete the work as stated herein, according to industry standards and good workmanship, and within the contract time set forth herein.
2. Contractor acknowledges that except for adjustments in the Firm Fixed Price by change orders, Contractor shall build the project in conformance to the contract documents and Omnitrans shall in no event be chargeable for more than the Firm Fixed Price.

CCC. OBSERVATION OF WORK BY PROJECT MANAGER

- 1. The Project Manager , shall at all times have access to the work during construction and shall be furnished with every reasonable facility for ascertaining full knowledge respecting the progress, workmanship, and character of materials and equipment used and employed in the work.
- 2. Whenever the Contractor varies the normal period during which work or any portion of it is carried on each day, he shall give timely notice to the Project Manager so that the Project Manager may be present to observe the work in progress. If the Contractor fails to give such timely notice, any work done in the absence of the Project Manager will be subject to rejection.
- 3. The Contractor shall give timely notice to the Project Manager in advance of backfilling or otherwise covering any part of the work so that the Director of Maintenance may observe such part of the work before it is concealed.
- 4. The observation, if any, by the Project Manager of the work shall not relieve the Contractor of any of his obligations to fulfill the contract as prescribed. Defective work shall be made good, and materials and equipment furnished and work performed which is not in accordance with the Contract documents may be rejected notwithstanding the fact that such materials, equipment, and work have been previously observed by the Project Manager or that payment therefore has been included in an estimate for payment.

DDD. REMOVAL OF DEFECTIVE AND UNAUTHORIZED WORK

- 1. Any work which does not conform to the requirements of the Contract documents shall be remedied or removed and replaced by the Contractor, together with any other work which may be displaced in so doing, and no compensation or extension of time will be allowed him for such removal, replacement, or remedial work. All nonconforming materials shall be immediately removed from the site.
- 2. Costs for re-testing and re-inspecting construction that replaces or is necessitated by work that failed to comply with the Contract Documents will be charged to Contractor and the Contract Price will be adjusted by Change Order.

PAINT AND CARPET REPLACEMENT AND INSTALLATION

3. Any work done beyond the lines and grades shown on the plans or established by the Project Manager or any changes in, additions to, or deductions from the work done without written authority will be considered as unauthorized and will not be paid for. Work so done may be ordered remedied, removed, or replaced at the Contractor's expense.
4. Upon failure on the part of the Contractor to comply promptly with any order of the Project Manager made under the provisions of this Contract, the Project Manager shall have authority to cause non-conforming materials, rejected work, or unauthorized work to be remedied, removed, or replaced at the Contractor's expense and to deduct the costs from any moneys due or to become due to the Contractor.

EEE. USE OF COMPLETED PORTIONS

1. When the Work or any portion of it is sufficiently complete to be utilized or placed into service, Omnitrans shall have the right upon written notification to the Contractor to utilize such portions of the work and to place the operable portions into service and to operate same.
2. Upon said notice and commencement of utilization or operation by Omnitrans, the Contractor shall be relieved of the duty of maintaining the portions so utilized or placed into operation; provided, however, that nothing in this article shall be construed as relieving the Contractor of the full responsibility for completing the work in its entirety, for making good defective work and materials, for protecting the work from damage, and for being responsible for damage and for the work as set forth in the Contract nor shall such action by Omnitrans be deemed completion and acceptance, and such action shall not relieve the Contractor, his sureties, or insurers of the provisions of Contractor's insurance, indemnity, and guarantees.

FFF. PROJECT COMPLETION

Project completion shall be defined as the date on which it is agreed by Omnitrans and its representatives, Contractor and permitting agencies that the project is accepted.

GGG. OBLIGATION TO CONTINUE WORK

Contractor, in the event of any dispute or controversy with Omnitrans over any matter whatsoever, shall not cause any delay or cessation in or of Contractor's work, but shall proceed under the contract with the performance of the work required thereby.

HHH. SUSPENSION OF WORK BY OMNITRANS

1. Omnitrans may, without cause, order Contractor in writing to suspend, delay, or interrupt the work in whole or in part for such period of time as Omnitrans may determine.
2. An adjustment shall be made for increases in the cost of performance of the contract, including profit on the increased cost of performance caused by suspension, delay or interruption.
3. No adjustment shall be made to the extent that:

PAINT AND CARPET REPLACEMENT AND INSTALLATION

- d) Performance is, was or would have been so suspended, delayed or interrupted by another cause for which Contractor is responsible;
 - e) Force Majeure;
 - f) An equitable adjustment was made under another provision of this contract.
4. Any such petitions for adjustments are subject to audit, Federal Cost Principles, and any other provision of this contract.

III. GENERAL REQUIREMENTS

1. Contractor to field verify all areas for appropriate square footages, linear feet, etc.
2. It is the Contractor's responsibility to coordinate the Work so as to minimize conflicts and optimize efficiency.
3. If and when it should be necessary for the Contractor to impact day-to-day operations of Omnitrans functions in order to pursue the Work, the Contractor shall furnish adequate notice to Omnitrans and coordinate the means and timing to avoid, minimize, or circumvent such impacts. Omnitrans reserves the right to assess and anticipate such impacts and the right to stop or postpone the Work until a mutually satisfactory time and means can be agreed upon.
4. The Contractor shall not stop or park any of his vehicles in such a manner to prevent the timely entrance and exit of Omnitrans coaches from the parking area. Our customers expect prompt service, and our service is scheduled on a tight timeline, and we will not accept any delays.
5. All Work is to comply with all applicable state and city code requirements.
6. The Contractor shall ensure that all of his operations strictly adhere to all Federal, State, and Local safety and environmental laws and regulations. Omnitrans, in accordance with the dual employer law, reserves the right to correct unsafe practices by the Contractor's employees, or stop work until the Contractor makes the appropriate corrections.
7. The Contractor shall arrange for the disposal of all materials generated in the performance of this contract. No trash or waste of any kind that is generated by the Contractor shall be disposed of in any receptacle that is in place for the use of our employees. Any trash or waste that must be disposed of by Omnitrans due to the Contractor's failure to provide for proper disposal will result in a liquidated damage to the Contractor equal to the cost of disposal plus the labor costs associated with making those arrangements.
8. Contractor to repair any damage to irrigation or landscaping as a result of construction activity.

JJJ. WARRANTY

1. Contractor warrants all Work under the Contract (which for purposes of this Section shall be deemed to include unauthorized work which has not been removed and any

PAINT AND CARPET REPLACEMENT AND INSTALLATION

non-conforming materials incorporated into the Work) to be of good quality and free from any defective or faulty material and workmanship.

2. Contractor agrees that for a period of one year (or the period of time specified elsewhere in the Contract or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the Work, whichever is later) after the date of final acceptance, Contractor shall within ten (10) days after being notified in writing by Omnitrans of any defect in the Work or non-conformance of the Work to the Contract, commence and prosecute with due diligence all Work necessary to fulfill the terms of the warranty at its sole cost and expense.
3. Contractor shall act sooner as requested by Omnitrans in response to an emergency.
4. In addition, Contractor shall, at its sole cost and expense, repair and replace any portions of the Work (or work of other contractors) damaged by its defective Work or which becomes damaged in the course of repairing or replacing defective Work. For any Work so corrected, Contractor's obligation hereunder to correct defective Work shall be reinstated for an additional one year period, commencing with the date of acceptance of such corrected Work. Contractor shall perform such tests as Omnitrans may require to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Contract. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstitution of equipment and materials necessary to gain access, shall be the sole responsibility of Contractor.
5. All warranties and guarantees of subcontractors, suppliers and manufacturers with respect to any portion of the Work, whether express or implied, are deemed to be obtained by Contractor for the benefit of Omnitrans, regardless of whether or not such warranties and guarantees have been transferred or assigned to Omnitrans by separate agreement and Contractor agrees to enforce such warranties and guarantees, if necessary, on behalf of Omnitrans.
6. In the event that Contractor fails to perform its obligations under this Section, or under any other warranty or guaranty under this Contract, to the reasonable satisfaction of Omnitrans, Omnitrans shall have the right to correct and replace any defective or non-conforming Work and any work damaged by such work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse Omnitrans for any expenses incurred hereunder upon demand.

End of General Provisions

ATTACHMENT D – PREVAILING WAGES

This project is funded under a financial assistance contract by the U.S. Department of Transportation and is subject to all conditions of the Davis-Bacon Act (40 U.S.C. 276a) and the Labor Code of the State of California commencing in Section 1770 et. seq. It is required that all mechanics and laborers employed or working at the site be paid not less than the current basic hourly rates of pay and fringe benefits. Wage schedules are attached or available on the internet at:

www.dir.ca.gov/DLSR/statistics_research.html

and

www.access.gpo.gov/davisbacon/.

Bidders shall utilize the relevant prevailing wage determinations in effect on the first advertisement date of the Invitation for Bids. In the event there are any differences between the minimum wage rates as determined by the United States Secretary of Labor and those determined by the State of California, the highest rate **MUST BE PAID**.

GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS
PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1770, 1773 AND 1773.1

FOR COMMERCIAL BUILDING, HIGHWAY, HEAVY CONSTRUCTION AND DREDGING PROJECTS

CRAFT: ASBESTOS AND LEAD ABATEMENT (LABORER)

DETERMINATION: SC-102-882-1-2016-1

ISSUE DATE: February 22, 2016

EXPIRATION DATE OF DETERMINATION: December 31, 2016** The rate to be paid for work performed after this date has been determined. If work will extend past this date, the new rate must be paid and should be incorporated in contracts entered into now. Contact the Office of the Director – Research Unit for specific rates at (415) 703-4774.

LOCALITY: All localities within Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara and Ventura Counties

Classification (Journey person)	<u>Employer Payments</u>						<u>Straight-Time</u>		<u>Overtime Hourly Rate</u>		
	Basic Hourly Rate	Health and Welfare	Pension	Vacation/ Holiday ^a	Training	Other ^b	Hours	Total Hourly Rate	Daily 1 1/2X	Saturday ^c 1 1/2X	Sunday/ Holiday 2X
Asbestos and Lead Abatement Worker	\$30.43	6.80	6.25	4.20	0.70	0.34	8	\$48.72	\$63.94	\$63.94	\$79.15

^a Includes an amount for supplemental dues.

^b Includes amounts for Center for Contract Compliance, Contract Administration Fund, Industry Fund, and Laborers' Trust Administrative Trust Fund.

^c Saturdays in the same work week may be worked at straight-time if the job is shut down during the normal work week due to inclement weather, or reasons beyond the control of the employer.

NOTE: Asbestos Abatement must be trained and the work conducted according to the Code of Federal Regulations 29 CFR 1926.58, the California Labor Code 6501.5 and the California Code of Regulations Title 8, Section 5208. Contractors must be certified by the Contractors' State License Board and registered with the Division of Occupational Safety and Health (DOSH). For further information, contact the Asbestos Contractors Abatement Registration Unit, DOSH at (916) 574-2993.

RECOGNIZED HOLIDAYS: Holidays upon which the general prevailing hourly wage rate for Holiday work shall be paid, shall be all holidays in the collective bargaining agreement, applicable to the particular craft, classification, or type of worker employed on the project, which is on file with the Director of Industrial Relations. If the prevailing rate is not based on a collectively bargained rate, the holidays upon which the prevailing rate shall be paid shall be as provided in Section 6700 of the Government Code. You may obtain the holiday provisions for the current determinations on the Internet at <http://www.dir.ca.gov/OPRL/PWD>. Holiday provisions for current or superseded determinations may be obtained by contacting the Prevailing Wage Unit at (415) 703-4774.

TRAVEL AND/OR SUBSISTENCE PAYMENT: In accordance with Labor Code Sections 1773.1 and 1773.9, contractors shall make travel and/or subsistence payments to each worker to execute the work. You may obtain the Travel and/or subsistence provisions for the current determinations on the Internet at <http://www.dir.ca.gov/OPRL/PWD>. Travel and/or Subsistence provisions for current or superseded determinations may be obtained by contacting the Prevailing Wage Unit at (415) 703-4774.

GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS
PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1770, 1773 AND 1773.1

LOCALITY: SAN BERNARDINO COUNTY

DETERMINATION: SBR-2016-1

- THE PREDETERMINED INCREASE SHOWN IS TO BE ALLOCATED TO WAGES AND/OR EMPLOYER PAYMENTS. PLEASE CONTACT THE OFFICE OF THE DIRECTOR - RESEARCH UNIT AT (415) 703-4774 WHEN THE PREDETERMINED INCREASE BECOMES DUE TO CONFIRM THE DISTRIBUTION. PLEASE ALSO EXAMINE THE IMPORTANT NOTICES TO SEE IF ANY MODIFICATIONS HAVE BEEN ISSUED, AS THERE MAY BE REDUCTIONS TO PREDETERMINED INCREASES.
- A (415) 703-4774 WHEN THE PREDETERMINED INCREASE BECOMES DUE TO CONFIRM THE DISTRIBUTION. PLEASE ALSO EXAMINE THE IMPORTANT NOTICES TO SEE IF ANY MODIFICATIONS HAVE BEEN ISSUED, AS THERE MAY BE REDUCTIONS TO PREDETERMINED INCREASES.
- B ZONE A IS DEFINED AS THE PORTION OF THE COUNTY 80 ROAD MILES FROM U.S. POST OFFICE, 455 W. ORANGE SHOW ROAD, SAN BERNARDINO. ZONE B IS DEFINED AS ANY WORK OUTSIDE OF ZONE A (80 MILE FREE ZONE) WHICH REQUIRES AN ADDITIONAL \$12.00 PER HOUR FOR TRAVEL/SUBSISTENCE. PAY SHALL BE ON A SEPARATE CHECK.
- C \$1.00 TO THE BASIC HOURLY RATE, \$0.25 TO HEALTH & WELFARE, AND \$0.08 TO PENSION.
- THE RATIO OF PLASTER TENDERS TO PLASTERERS SHALL BE AS FOLLOWS: THERE SHALL BE A PLASTER TENDER ON THE JOBSITE WHENEVER THERE IS A PLASTERER PERFORMING WORK ON THE JOBSITE, EXCEPT ON SMALL PATCH WORK WHERE ONLY ONE PLASTERER IS PERFORMING WORK. FOR INSIDE BROWN COATINGS THERE SHALL BE 2 PLASTER TENDERS FOR UP TO EVERY 3 PLASTERERS. FOR INSIDE FINISH COATINGS THERE SHALL BE 1 PLASTER TENDER FOR UP TO EVERY 3 PLASTERERS. ON OUTSIDE FINISH AND BROWN COATINGS AND FOR ALL OTHER WORK, THERE SHALL BE 1 PLASTER TENDER FOR UP TO EVERY 2 PLASTERERS.
- D WORK ON THE JOBSITE, EXCEPT ON SMALL PATCH WORK WHERE ONLY ONE PLASTERER IS PERFORMING WORK. FOR INSIDE BROWN COATINGS THERE SHALL BE 2 PLASTER TENDERS FOR UP TO EVERY 3 PLASTERERS. FOR INSIDE FINISH COATINGS THERE SHALL BE 1 PLASTER TENDER FOR UP TO EVERY 3 PLASTERERS. ON OUTSIDE FINISH AND BROWN COATINGS AND FOR ALL OTHER WORK, THERE SHALL BE 1 PLASTER TENDER FOR UP TO EVERY 2 PLASTERERS.
- E PIPE TRADESMEN SHALL NOT BE PERMITTED ON ANY JOB WITHOUT A JOURNEYMAN.
- F \$0.80 TO BASIC HOURLY RATE (\$0.10 TO DUES CHECK OFF, INCLUDED IN BHR), \$0.25 TO HEALTH & WELFARE, \$0.65 TO PENSION AND \$0.10 TO TRAINING
- G \$0.95 TO BASIC HOURLY RATE, \$0.25 TO HEALTH & WELFARE, \$0.53 TO PENSION, \$0.02 TO TRAINING AND \$0.05 TO OTHER
- H \$1.05 TO BASIC HOURLY RATE, \$0.25 TO HEALTH & WELFARE, AND \$0.55 TO PENSION
- I \$1.40 TO BASIC HOURLY RATE, \$0.25 TO HEALTH & WELFARE AND \$0.25 TO PENSION
- \$1.20 TO PENSION AND \$0.90 TO WAGES AND/OR FRINGES. PLEASE CONTACT THE OFFICE OF THE DIRECTOR - RESEARCH UNIT AT (415) 703-4774 WHEN THE PREDETERMINED INCREASE BECOMES DUE TO CONFIRM THE DISTRIBUTION. PLEASE ALSO EXAMINE THE IMPORTANT NOTICES TO SEE IF ANY MODIFICATIONS HAVE BEEN ISSUED, AS THERE MAY BE REDUCTIONS TO PREDETERMINED INCREASES.
- J INCREASE BECOMES DUE TO CONFIRM THE DISTRIBUTION. PLEASE ALSO EXAMINE THE IMPORTANT NOTICES TO SEE IF ANY MODIFICATIONS HAVE BEEN ISSUED, AS THERE MAY BE REDUCTIONS TO PREDETERMINED INCREASES.
- \$0.28 TO PENSION AND \$1.72 TO WAGES AND/OR FRINGES. PLEASE CONTACT THE OFFICE OF THE DIRECTOR - RESEARCH UNIT AT (415) 703-4774 WHEN THE PREDETERMINED INCREASE BECOMES DUE TO CONFIRM THE DISTRIBUTION. PLEASE ALSO EXAMINE THE IMPORTANT NOTICES TO SEE IF ANY MODIFICATIONS HAVE BEEN ISSUED, AS THERE MAY BE REDUCTIONS TO PREDETERMINED INCREASES.
- K INCREASE BECOMES DUE TO CONFIRM THE DISTRIBUTION. PLEASE ALSO EXAMINE THE IMPORTANT NOTICES TO SEE IF ANY MODIFICATIONS HAVE BEEN ISSUED, AS THERE MAY BE REDUCTIONS TO PREDETERMINED INCREASES.

[SBR-2016-1-INC](#)

LOCALITY: SAN BERNARDINO COUNTY
DETERMINATION: SBR-2016-1

FOOTNOTES

LOCALITY: SAN BERNARDINO COUNTY

DETERMINATION: SBR-2016-1

- * EFFECTIVE UNTIL SUPERSEDED BY A NEW DETERMINATION ISSUED BY THE DIRECTOR OF INDUSTRIAL RELATIONS. CONTACT THE OFFICE OF THE DIRECTOR - RESEARCH UNIT AT (415) 703-4774 FOR THE NEW RATES AFTER TEN DAYS AFTER THE EXPIRATION DATE IF NO SUBSEQUENT DETERMINATION IS ISSUED.
- ** THE RATE TO BE PAID FOR WORK PERFORMED AFTER THIS DATE HAS BEEN DETERMINED. IF WORK WILL EXTEND PAST THIS DATE, THE NEW RATE MUST BE PAID AND SHOULD BE INCORPORATED IN CONTRACTS ENTERED INTO NOW. CONTACT THE OFFICE OF THE DIRECTOR - RESEARCH UNIT FOR SPECIFIC RATES AT (415) 703-4774.
- # INDICATES AN APPRENTICEABLE CRAFT. THE CURRENT APPRENTICE WAGE RATES ARE AVAILABLE ON THE INTERNET @ [HTTP://WWW.DIR.CA.GOV/OPRL/PWAPPWAGE/PWAPPWAGESTART.ASP](http://www.dir.ca.gov/OPRL/PWAPPWAGE/PWAPPWAGESTART.ASP). TO OBTAIN ANY APPRENTICE WAGE RATES AS OF JULY 1, 2008 AND PRIOR TO SEPTEMBER 27, 2012, PLEASE CONTACT THE DIVISION OF APPRENTICESHIP STANDARDS OR REFER TO THE DIVISION OF
- & THE BASIC HOURLY RATE AND EMPLOYER PAYMENTS ARE NOT TAKEN FROM A COLLECTIVE BARGAINING AGREEMENT FOR THIS CRAFT OR CLASSIFICATION.
- A INCLUDES AMOUNT WITHHELD FOR DUES CHECK OFF AND CONTRACT COMPLIANCE.
- B INCLUDES AN AMOUNT, \$0.50, FOR THE IMI TRAINING FUND.
- C SATURDAYS IN THE SAME WORK WEEK MAY BE WORKED AT STRAIGHT-TIME IF JOB IS SHUT DOWN DURING THE NORMAL WORKWEEK DUE TO INCLEMENT WEATHER, OR REASONS BEYOND THE CONTROL OF THE EMPLOYER.
- D RATE APPLIES TO THE FIRST 2 DAILY OVERTIME HOURS AND THE FIRST 8 HOURS ON SATURDAY ONLY; ALL OTHER TIME IS PAID AT THE SUNDAY AND HOLIDAY OVERTIME HOURLY RATE.
- E INCLUDES AN AMOUNT, \$0.41, FOR THE IMI TRAINING FUND.
- F THE RATIO OF BRICK TENDERS TO BRICKLAYERS SHALL BE AS FOLLOWS: ONE (1) BRICK TENDER TO NO MORE THAN THREE (3) BRICKLAYERS DURING THE INSTALLATION OF BLOCK ON A TYPICAL MASONRY PROJECT.
- G INCLUDES AN AMOUNT PER HOUR WORKED FOR SUPPLEMENTAL DUES.
- H INCLUDES AMOUNT WITHHELD FOR DUES CHECK OFF.
- I RATE APPLIES TO THE FIRST 12 HOURS ON SATURDAY, ALL OTHER TIME IS PAID AT DOUBLE TIME.
- J A MATERIAL HANDLER MAY BE UTILIZED IN RATIO OF ONE (1) MATERIAL HANDLER WITH ANY FIVE (5) JOURNEYMEN ON ANY GIVEN PROJECT.
- K RATE APPLIES TO FIRST 8 HOURS ONLY. DOUBLE TIME THEREAFTER. SATURDAYS IN THE SAME WORK WEEK MAY BE WORKED AT STRAIGHT-TIME IF JOB IS SHUT DOWN DURING THE NORMAL WORK WEEK DUE TO INCLEMENT WEATHER.
- L IN ADDITION, AN AMOUNT EQUAL TO 3% OF THE BASIC HOURLY RATE IS ADDED TO THE TOTAL HOURLY RATE AND OVERTIME HOURLY RATES FOR THE NATIONAL EMPLOYEES BENEFIT BOARD.
- M INCLUDES AN AMOUNT FOR THE NATIONAL LABOR-MANAGEMENT COOPERATION FUND AND THE ADMINISTRATIVE MAINTENANCE FUND.
- N RATE APPLIES TO THE FIRST 4 DAILY OVERTIME HOURS AND THE FIRST 12 HOURS WORKED ON SATURDAY; ALL OTHER TIME IS PAID AT THE SUNDAY AND HOLIDAY OVERTIME HOURLY RATE.
- O ZONE A IS DEFINED AS THE PORTION OF THE COUNTY 80 ROAD MILES FROM U.S. POST OFFICE, 455 W. ORANGE SHOW ROAD, SAN BERNARDINO. ZONE B IS DEFINED AS ANY WORK OUTSIDE OF ZONE A (80 MILE FREE ZONE) WHICH REQUIRES AN ADDITIONAL \$12.00 PER HOUR FOR TRAVEL/SUBSISTENCE. PAY SHALL BE ON A SEPARATE CHECK.
- P INCLUDES AMOUNT WITHHELD FOR WORKING DUES.
- Q IN ADDITION TO THE AMOUNT SHOWN, WHICH IS FACTORED AT THE APPLICABLE OVERTIME MULTIPLIER FOR EACH OVERTIME HOUR, \$0.28 IS ADDED TO THE TOTAL HOURLY RATE AND OVERTIME HOURLY RATES FOR THE LABOR MANAGEMENT COOPERATION COMMITTEE FUND.
- R RATE APPLIES TO THE FIRST 2 DAILY OVERTIME HOURS AND THE FIRST 8 HOURS ON SATURDAY ONLY; ALL OTHER TIME IS PAID AT THE SUNDAY AND HOLIDAY OVERTIME HOURLY RATE. ALL OVERTIME WORKED DAILY OR ON SATURDAYS, FOR SERVICE AND REPAIR WORK OTHER THAN NEW WORK, MAY BE PAID AT THE RATE OF TIME AND ONE-HALF.
- S DICTIONARY OF OCCUPATIONAL TITLES, FOURTH EDITION, 1977, U.S. DEPARTMENT OF LABOR.
- T INCLUDES AMOUNT WITHHELD FOR DUES CHECKOFF, WHICH IS FACTORED IN THE OVERTIME RATES. INCLUDES \$2.00 OF VACATION THAT IS NOT FACTORED IN THE OVERTIME RATES.
- U INCLUDES AN AMOUNT PER HOUR WORKED OR PAID TO DISABILITY FUND.
- V INCLUDED IN STRAIGHT-TIME HOURLY RATE WHICH IS NOT FACTORED IN THE OVERTIME RATES.
- W RATE APPLIES TO THE FIRST 4 OVERTIME HOURS MONDAY THROUGH FRIDAY AND THE FIRST 8 HOURS WORKED ON SATURDAY. ALL OTHER TIME IS PAID AT THE SUNDAY AND HOLIDAY OVERTIME RATE.
- X INCLUDES AMOUNT WITHHELD FOR ADMINISTRATIVE DUES.
- Y SATURDAYS IN THE SAME WORK WEEK MAY BE WORKED AT STRAIGHT-TIME IF JOB IS SHUT DOWN DURING THE NORMAL WORKWEEK DUE TO A WORK STOPPAGE SUCH AS RAIN OR ANY OTHER STOPPAGE THAT IS BEYOND THE CONTROL OF THE CONTRACTOR.
- Z RATE APPLIES TO FIRST TWO DAILY OVERTIME HOURS WORKED; ALL OTHER OVERTIME IS PAID AT THE HOLIDAY OVERTIME HOURLY RATE.
- AA RATE APPLIES TO THE FIRST 8 HOURS WORKED ON A SIXTH OR SEVENTH CONSECUTIVE DAY DURING ANY ONE CALENDAR WEEK UP TO 50 HOURS IN ANY ONE CALENDAR WEEK. ALL OTHER TIME IS PAID AT THE HOLIDAY RATE.
- AB RATE APPLIES TO WORK ON HOLIDAYS ONLY; SUNDAYS ARE PAID AT THE SATURDAY OVERTIME HOURLY RATE.
- AC AN ADDITIONAL \$0.25 PER HOUR WILL BE ADDED TO THE BASIC HOURLY RATE WHEN PERFORMING PAPERHANGING WORK.
- AD DOUBLE TIME SHALL BE PAID FOR ALL HOURS WORKED OVER 12 HOURS IN ANY ONE DAY.
- AE ON REPAINT WAGE WORK ANY 8 HOURS IN A 24 HOUR PERIOD MONDAY THROUGH SUNDAY SHALL BE THE WORK DAY AND ANY 40 HOURS IN A WEEK SHALL BE THE WORK WEEK, PROVIDED THAT THE 40 HOURS IS WORKED IN 5 CONSECUTIVE DAYS (LEGAL HOLIDAYS WILL NOT BE COUNTED IN THE 5 CONSECUTIVE DAYS). FOR ALL WORK UNDER THIS CRAFT/CLASSIFICATION DOUBLE TIME SHALL BE
- AF INCLUDES AN AMOUNT PER HOUR WORKED OR PAID FOR SUPPLEMENTAL DUES.
- AG SATURDAY IN THE SAME WORKWEEK MAY BE WORKED AT THE STRAIGHT-TIME HOURLY RATE IF IT IS NOT POSSIBLE TO COMPLETE FORTY HOURS OF WORK MONDAY THROUGH FRIDAY WHEN THE JOB IS SHUT DOWN DUE TO INCLEMENT WEATHER OR SIMILAR ACT OF GOD, OR BEYOND THE CONTRACTOR'S CONTROL.
- AH RATE APPLIES TO THE FIRST 8 HOURS WORKED; ALL OTHER TIME IS PAID AT THE SUNDAY AND HOLIDAY OVERTIME HOURLY RATE.
- AI THE RATIO OF PLASTER TENDERS TO PLASTERERS SHALL BE AS FOLLOWS: THERE SHALL BE A PLASTER TENDER ON THE JOBSITE WHENEVER THERE IS A PLASTERER PERFORMING WORK ON THE JOBSITE, EXCEPT ON SMALL PATCH WORK WHERE ONLY ONE PLASTERER IS PERFORMING WORK. FOR INSIDE BROWN COATINGS THERE SHALL BE 2 PLASTER TENDERS FOR UP TO EVERY 3 PLASTERERS. FOR INSIDE FINISH COATINGS THERE SHALL BE 1 PLASTER TENDER FOR UP TO EVERY 3 PLASTERERS. ON OUTSIDE FINISH AND BROWN COATINGS AND FOR ALL OTHER WORK, THERE SHALL BE

LOCALITY: SAN BERNARDINO COUNTY

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AJ ALL WORK PERFORMED AFTER TWELVE (12) HOURS IN A DAY SHALL BE PAID AT THE SUNDAY/HOLIDAY RATE.
AK RATE APPLIES TO THE FIRST EIGHT HOURS ON SATURDAY. ALL OTHER TIME IS PAID AT THE SUNDAY AND HOLIDAY OVERTIME RATE. SATURDAY WORK MAY BE PAID AT THE STRAIGHT TIME RATE IF
THE JOB IS SHUT DOWN DURING THE NORMAL WORK WEEK DUE TO INCLEMENT WEATHER.
AL INCLUDES AMOUNT FOR NATIONAL PENSION AND RETIREE'S X-MAS FUND.
AM FACTORED AT 1.5 TIMES FOR ALL OVERTIME.
AN INCLUDES AN AMOUNT FOR THE P.I.P.E. LABOR MANAGEMENT COOPERATION COMMITTEE AND THE CONTRACTOR EDUCATION & DEVELOPMENT FUND.
AO RATE APPLIES TO THE FIRST 2 DAILY OVERTIME HOURS AND THE FIRST 10 HOURS ON SATURDAY; ALL OTHER TIME IS PAID AT THE SUNDAY AND HOLIDAY OVERTIME HOURLY RATE.
AP SATURDAYS IN THE SAME WORK WEEK MAY BE WORKED AT STRAIGHT-TIME IF JOB IS SHUT DOWN DURING THE NORMAL WORKWEEK DUE TO INCLEMENT WEATHER.
AQ PIPE TRADESMEN SHALL NOT BE PERMITTED ON ANY JOB WITHOUT A JOURNEYMAN.
AR SATURDAY MAY BE WORKED AT STRAIGHT-TIME RATE, PROVIDED THAT THE HOURS DO NOT EXCEED 8 HOURS PER DAY OR 40 HOURS PER WEEK.
AS DOUBLE TIME SHALL BE PAID FOR NEW YEAR'S DAY, EASTER SUNDAY, LABOR DAY, THANKSGIVING DAY, AND CHRISTMAS.
AT TRADESMEN SHALL ONLY BE USED IF THE FIRST WORKER ON THE JOB IS A LANDSCAPE/IRRIGATION FITTER, SECOND WORKER MUST BE A LANDSCAPE/IRRIGATION FITTER OR APPRENTICE
LANDSCAPE/IRRIGATION FITTER. THE 3RD AND 4TH MAY BE A TRADESMAN. THE 5TH MUST BE A LANDSCAPE/IRRIGATION FITTER AND THEREAFTER TRADESMEN WILL BE REFERRED ON A 50-50
AU RATE APPLIES TO REMAINDER OF COUNTY.
AV INCLUDES AN AMOUNT FOR SUPPLEMENTAL PENSION FUND.
AW APPLIES TO THE CITIES OF ONTARIO AND MONTCLAIR.
AX INCLUDED IN STRAIGHT-TIME HOURLY RATE.
AY AMOUNT IS FOR INDUSTRY PROMOTION FUND AND P.I.P.E. FUND.
AZ RATE APPLIES TO THE FIRST 10 HOURS WORKED ON SATURDAY. ALL OTHER HOURS ARE PAID AT THE SUNDAY/HOLIDAY RATE.
BA INCLUDE AMOUNTS FOR DUES CHECK OFF AND VACATION/HOLIDAY, WHICH ARE NOT FACTORED INTO OVERTIME.
BB INCLUDES AN AMOUNT PER HOUR WORKED FOR ANNUITY TRUST FUND.
BC INCLUDED IN BASIC HOURLY RATE. VACATION IS NOT FACTORED INTO OVERTIME
BD INCLUDE AMOUNTS FOR ADMINISTRATIVE FUND, COMPLIANCE FUND, INDUSTRY FUND, AND RESEARCH AND EDUCATION TRUST FUND.
BE PURSUANT TO LABOR CODE SECTIONS 1773.1 AND 1773.8, THE AMOUNT PAID FOR THIS EMPLOYER PAYMENT MAY VARY RESULTING IN A LOWER TAXABLE BASIC HOURLY WAGE RATE, BUT THE TOTAL
HOURLY RATES FOR STRAIGHT TIME AND OVERTIME MAY NOT BE LESS THAN THE GENERAL PREVAILING RATE OF PER DIEM WAGES.
BF RATE APPLIES FOR THE FIRST 4 OVERTIME HOURS MONDAY THROUGH FRIDAY AND THE FIRST 12 HOURS WORKED ON SATURDAY. ALL OTHER TIME IS PAID AT THE SUNDAY/HOLIDAY RATE.
SATURDAYS IN THE SAME WORKWEEK MAY BE WORKED AT STRAIGHT-TIME IF JOB IS SHUT DOWN DURING THE NORMAL WORKWEEK DUE TO INCLEMENT WEATHER.

GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS
PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1770, 1773 AND 1773.1
FOR COMMERCIAL BUILDING, HIGHWAY, HEAVY CONSTRUCTION AND DREDGING PROJECTS

LOCALITY: SAN BERNARDINO COUNTY
DETERMINATION: SBR-2016-1

DETERMINATION: SBR-2016-1			EMPLOYER PAYMENTS							STRAIGHT-TIME		OVERTIME HOURLY RATE		
CRAFT (JOURNEY LEVEL)		ISSUE DATE	EXPIRATION DATE	BASIC HOURLY RATE	HEALTH AND WELFARE	PENSION	VACATION/ HOLIDAY	TRAINING	OTHER PAYMENTS	HOURS	TOTAL HOURLY RATE	DAILY	SATURDAY	SUNDAY AND HOLIDAY
#	BRICKLAYER, STONEMASON, BRICKLAYER, CEMENT BLOCKLAYER, POINTER, CAULKER,	8/22/2015	04/30/2016*	A 37.150	7.500	5.420	-	B 0.760	0.350	C 8.0	51.180	D 69.760	D 69.760	88.330
#	BRICKLAYER: MASON FINISHER	8/22/2015	04/30/2016*	A 26.550	7.500	6.900	-	E 0.670	0.350	C 8.0	41.970	D 55.240	D 55.240	68.520
# F	BRICK TENDER	8/22/2015	06/30/2016*	29.570	6.860	6.500	G 3.900	0.650	0.470	C 8.0	47.950	62.740	62.740	77.520
#	BRICK TENDER: FORKLIFT OPERATOR	8/22/2015	06/30/2016*	30.020	6.860	6.500	G 3.900	0.650	0.470	C 8.0	48.400	63.410	63.410	78.420
#	CARPET, LINOLEUM, RESILIENT TILE LAYER	2/22/2016	04/30/2016*	H 29.850	5.080	6.300	2.050	0.630	0.200	8.0	44.110	59.040	I 59.040	73.960
J	MATERIAL HANDLER	2/22/2016	04/30/2016*	H 10.000	5.080	2.280	0.550	0.630	0.100	8.0	18.640	23.640	I 23.640	28.640
#	DRYWALL FINISHER													
	DRYWALL FINISHER	2/22/2016	09/30/2016*	H 36.180	7.950	5.130	3.070	0.670	0.470	8.0	53.470	71.560	K 71.560	89.650
#	ELECTRICIAN:													
	COMM & SYSTEM INSTALLER	2/22/2016	12/25/2016**	29.380	8.700	L 4.100	-	0.650	M 0.250	8.0	43.960	N 59.090	N 59.090	74.220
O	INSIDE WIREMAN - ZONE A	8/22/2015	05/31/2016**	P 36.070	9.320	L 10.810	-	0.680	Q 0.500	8.0	58.740	R 77.570	R 77.570	96.390
O	CABLE SPLICER - ZONE A	8/22/2015	05/31/2016**	P 37.570	9.320	L 10.810	-	0.680	Q 0.530	8.0	60.320	R 79.930	R 79.930	99.540
O	TUNNEL WIREMAN - ZONE A	8/22/2015	05/31/2016**	P 39.680	9.320	L 10.810	-	0.680	Q 0.550	8.0	62.510	R 83.220	R 83.220	103.930
#	FIELD SURVEYOR:													
S	CHIEF OF PARTY (018.167-010)	2/22/2016	09/30/2016*	44.810	11.200	9.650	G 4.150	0.900	0.150	8.0	70.860	N 93.260	N 93.260	115.670
S	INSTRUMENTMAN (018.167-034)	2/22/2016	09/30/2016*	42.310	11.200	9.650	G 4.150	0.900	0.150	8.0	68.360	N 89.510	N 89.510	110.670
S	CHAINMAN/RODMAN (869.567-010)	2/22/2016	09/30/2016*	41.730	11.200	9.650	G 4.150	0.900	0.150	8.0	67.780	N 88.650	N 88.650	109.510
#	GLAZIER	2/22/2016	05/31/2016**	T 40.700	U 7.000	13.030	V -	0.770	0.530	8.0	62.030	W 81.380	W 81.380	100.730
#	MARBLE FINISHER	8/22/2015	05/31/2016**	X 28.450	9.160	2.710	-	0.810	0.330	Y 8.0	41.460	Z 55.690	AA 55.690	AB 69.910
#	PAINTER													
AC	INDUSTRIAL PAINTER	8/22/2015	06/30/2016*	P 32.020	8.050	3.040	1.050	0.790	0.820	8.0	45.770	AD 61.780	AD 61.780	AD 61.780
#	PAINTER:													
AC	PAINTER, LEAD ABATEMENT	8/22/2015	06/30/2016*	P 30.720	8.050	3.040	1.050	0.690	0.820	8.0	44.370	AD 59.730	AD 59.730	AD 59.730
AC	REPAINT PAINTER, LEAD ABATEMENT	8/22/2015	06/30/2016*	P 27.290	8.050	3.040	1.050	0.690	0.820	8.0	40.940	AE 54.580	AE 54.580	AE 54.580
AC	INDUSTRIAL REPAINT PAINTER	8/22/2015	06/30/2016*	P 28.450	8.050	3.040	1.050	0.790	0.820	8.0	42.200	AE 56.430	AE 56.430	AE 56.430
#	PLASTERER	8/22/2015	08/02/2016**	32.910	8.930	4.210	AF 5.530	0.630	0.990	AG 8.0	53.200	AD 69.650	AH 69.650	86.110
# AI	PLASTER TENDER	8/22/2015	08/02/2016**	32.710	7.000	5.900	AF 5.050	1.020	1.020	8.0	52.700	AJ 69.060	AK 69.060	85.410
	PLASTER CLEAN-UP LABORER	8/22/2015	08/02/2016**	30.160	7.000	5.900	AF 5.050	1.020	1.020	8.0	50.150	AJ 65.230	AK 65.230	80.310
#	PLUMBER:													
	PLUMBER, INDUSTRIAL AND GENERAL PIPEFITTER	8/22/2015	06/30/2016**	X 42.930	7.110	AL 11.050	AM 3.030	2.550	AN 1.000	8.0	67.670	AO 89.850	AO 89.850	110.520
	SEWER AND STORM DRAIN PIPELAYER	8/22/2015	06/30/2016**	X 33.110	7.110	AL 8.200	AM 1.000	2.170	AN 1.000	8.0	52.590	68.850	AP 68.850	84.600
AQ	TRADESMAN	8/22/2015	06/30/2016**	X 17.060	7.110	0.380	-	1.600	AN 0.850	8.0	27.000	34.730	AP 34.730	42.460
	FITTER)	8/22/2015	06/30/2016**	X 41.510	7.110	AL 10.740	AM 3.030	1.880	AN 1.000	8.0	65.270	86.740	AR 86.740	AS 106.700
	LANDSCAPE/IRRIGATION FITTER	8/22/2015	06/30/2016**	X 27.620	7.110	AL 11.050	AM 2.490	1.940	AN 0.800	AP 8.0	51.010	66.070	66.070	79.880
AT	LANDSCAPE/IRRIGATION TRADESMAN	8/22/2015	06/30/2016*	X 13.390	2.000	AL 0.880	-	0.100	AN 0.750	AP 8.0	17.120	23.820	23.820	30.510
AU	AND CONTROL SYSTEMS, OVERHEAD AND UNDERGROUND)	2/22/2016	03/31/2016*	35.480	8.770	AV 11.060	-	0.450	0.250	8.0	56.010	73.750	73.750	91.490

GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS
PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1770, 1773 AND 1773.1
FOR COMMERCIAL BUILDING, HIGHWAY, HEAVY CONSTRUCTION AND DREDGING PROJECTS

LOCALITY: SAN BERNARDINO COUNTY
DETERMINATION: SBR-2016-1

DETERMINATION: SBR-2016-1			EMPLOYER PAYMENTS							STRAIGHT-TIME		OVERTIME HOURLY RATE		
CRAFT (JOURNEY LEVEL)		ISSUE DATE	EXPIRATION DATE	BASIC HOURLY RATE	HEALTH AND WELFARE	PENSION	VACATION/ HOLIDAY	TRAINING	OTHER PAYMENTS	HOURS	TOTAL HOURLY RATE	DAILY	SATURDAY	SUNDAY AND HOLIDAY
AW	AND CONTROL SYSTEMS, OVERHEAD AND UNDERGROUND)	2/22/2016	08/31/2017*	40.060	8.920	14.300	AX -	1.350	AY 0.550	8.0	65.180	85.210	AZ 85.210	105.240
#	ROOFER	2/22/2016	07/31/2016**	BA 35.320	7.560	BB 6.390	BC -	0.400	BD 0.570	8.0	50.240	AO 66.070	AO 66.070	81.910
	PITCH WORK	2/22/2016	07/31/2016**	BA 37.070	7.560	BB 6.390	BC -	0.400	BD 0.570	8.0	51.990	AO 68.700	AO 68.700	85.410
	PREPARER	2/22/2016	07/31/2016**	BA 36.320	7.560	BB 6.390	BC -	0.400	BD 0.570	8.0	51.240	AO 67.570	AO 67.570	83.910
	SHEET METAL WORKER	8/22/2015	06/30/2016**	P 41.260	9.870	BE 14.710	-	0.820	0.650	8.0	67.310	BF 87.940	BF 87.940	108.570
#	TERRAZZO FINISHER	8/22/2014	08/31/2015*	H 27.530	7.510	3.270	AX -	0.490	0.120	AP 8.0	38.920	Z 52.690	AA 52.690	AB 66.450
#	TERRAZZO WORKER	8/22/2014	08/31/2015*	H 34.570	8.300	3.270	AX -	0.570	0.120	AP 8.0	46.830	Z 64.110	AA 64.110	AB 81.400
#	TILE FINISHER	8/22/2015	05/31/2016**	X 23.780	8.430	1.800	-	0.750	0.280	Y 8.0	35.040	Z 46.930	AA 46.930	AB 58.820
#	TILE LAYER	8/22/2015	05/31/2016**	X 35.140	9.250	5.680	-	0.910	0.370	Y 8.0	51.350	Z 68.920	AA 68.920	AB 86.490

FOOTNOTES

[FOOTNOTES](#)

GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS
PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1770, 1773 AND 1773.1

FOR COMMERCIAL BUILDING, HIGHWAY, HEAVY CONSTRUCTION AND DREDGING PROJECTS

CRAFT: #LABORER AND RELATED CLASSIFICATIONS

DETERMINATION: SC-23-102-2-2016-1

ISSUE DATE: August 22, 2016

EXPIRATION DATE OF DETERMINATION: July 2, 2017** The rate to be paid for work performed after this date has been determined. If work will extend past this date, the new rate must be paid and should be incorporated in contracts entered into now. Contact the Office of the Director – Research Unit for specific rates at (415) 703-4774.

LOCALITY: All localities within Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura counties.

Classification ^a (Journey person)	Basic Hourly Rate	Employer Payments					Straight-Time		Overtime Hourly Rates		
		Health and Welfare	Pension	Vacation/ and Holiday ^d	Training	Other Payment	Hours	Total Hourly Rate	Daily ^b 1 1/2X	Saturday ^{bc} 1 1/2X	Sunday and Holiday

CLASSIFICATION GROUPS

Group 1	\$32.34	7.06	6.75	4.57	0.69	0.67	8	52.08	68.250	68.250	84.42
Group 2	32.89	7.06	6.75	4.57	0.69	0.67	8	52.63	69.075	69.075	85.52
Group 3	33.44	7.06	6.75	4.57	0.69	0.67	8	53.18	69.900	69.900	86.62
Group 4	34.99	7.06	6.75	4.57	0.69	0.67	8	54.73	72.225	72.225	89.72
Group 5	35.34	7.06	6.75	4.57	0.69	0.67	8	55.08	72.750	72.750	90.42

Indicates an apprenticeable craft. The current apprentice wage rates are available on the Internet @ <http://www.dir.ca.gov/OPRL/PWAppWage/PWAppWageStart.asp>. To obtain any apprentice wage rates as of July 1, 2008 and prior to September 27, 2012, please contact the Division of Apprenticeship Standards or refer to the Division of Apprenticeship Standards' website at <http://www.dir.ca.gov/das/das.html>.

^a For classification within each group, see page 14.

^b Any hours worked over 12 hours in a single workday are double (2) time.

^c Saturdays in the same work week may be worked at straight-time if job is shut down during work week due to inclement weather or similar Act of God, or a situation beyond the employers control.

^d Includes an amount per hour worked for supplemental dues

RECOGNIZED HOLIDAYS: Holidays upon which the general prevailing hourly wage rate for Holiday work shall be paid, shall be all holidays in the collective bargaining agreement, applicable to the particular craft, classification, or type of worker employed on the project, which is on file with the Director of Industrial Relations. If the prevailing rate is not based on a collectively bargained rate, the holidays upon which the prevailing rate shall be paid shall be as provided in Section 6700 of the Government Code. You may obtain the holiday provisions for the current determinations on the Internet at <http://www.dir.ca.gov/OPRL/PWD>. Holiday provisions for current or superseded determinations may be obtained by contacting the Office of the Director – Research Unit at (415) 703-4774.

TRAVEL AND/OR SUBSISTENCE PAYMENT: In accordance with Labor Code Sections 1773.1 and 1773.9, contractors shall make travel and/or subsistence payments to each worker to execute the work. You may obtain the travel and/or subsistence provisions for the current determinations on the Internet at <http://www.dir.ca.gov/OPRL/PWD>. Travel and/or subsistence requirements for current or superseded determinations may be obtained by contacting the Office of the Director – Research Unit at (415) 703-4774.

CLASSIFICATION GROUPS

GROUP 1

Boring Machine Helper (Outside)
Certified Confined Space Laborer
Cleaning and Handling of Panel Forms
Concrete Screeding for Rough Strike-Off
Concrete, Water Curing
Demolition Laborer, the cleaning of brick if performed by an employee performing any other phase of demolition work, and the cleaning of lumber
Fiberoptic Installation, Blowing, Splicing, and Testing Technician on public right-of-way only
Fire Watcher, Limbers, Brush Loaders, Pilers and Debris Handlers
Flagman
Gas, Oil and/or Water Pipeline Laborer
Laborer, Asphalt-Rubber Material Loader
Laborer, General or Construction
Laborer, General Cleanup
Laborer, Jetting
Laborer, Temporary Water and Air Lines
Plugging, Filling of Shee-Bolt Holes; Dry Packing of Concrete and Patching
Post Hole Digger (Manual)
Railroad Maintenance, Repair Trackman and Road Beds; Streetcar and Railroad Construction Track Laborers
Rigging and Signaling
Scaler
Slip Form Raisers
Tarman and Mortar Man
Tool Crib or Tool House Laborer
Traffic Control by any method
Water Well Driller Helper
Window Cleaner
Wire Mesh Pulling - All Concrete Pouring Operations

GROUP 2

Asphalt Shoveler
Cement Dumper (on 1 yard or larger mixer and handling bulk cement)
Cesspool Digger and Installer
Chucktender
Chute Man, pouring concrete, the handling of the chute from readymix trucks, such as walls, slabs, decks, floors, foundations, footings, curbs, gutters and sidewalks
Concrete Curer-Impervious Membrane and Form Oiler
Cutting Torch Operator (Demolition)
Fine Grader, Highways and Street Paving, Airport, Runways, and similar type heavy construction
Gas, Oil and/or Water Pipeline Wrapper-Pot Tender and Form Man
Guinea Chaser
Headerboard Man-Asphalt
Installation of all Asphalt Overlay Fabric and Materials used for Reinforcing Asphalt
Laborer, Packing Rod Steel and Pans
Membrane Vapor Barrier Installer
Power Broom Sweepers (small)
Riprap, Stonepaver, placing stone or wet sacked concrete
Roto Scraper and Tiller
Sandblaster (Pot Tender)
Septic Tank Digger and Installer (leadman)

GROUP 2 (continued)

Tank Scaler and Cleaner
Tree Climber, Faller, Chain Saw Operator, Pittsburgh Chipper and similar type
Brush Shredders
Underground Laborer, including Caisson Bellow

GROUP 3

Asphalt Installation of all fabrics
Buggymobile Man
Compactor (all types including Tampers, Barko, Wacker)
Concrete Cutting Torch
Concrete Pile Cutter
Driller, Jackhammer, 2 1/2 ft. drill steel or longer
Dri Pak-it Machine
Gas, Oil and/or Water Pipeline Wrapper - 6-inch pipe and over by any method, inside and out
High Scaler (including drilling of same)
Impact Wrench, Multi-Plate
Kettlemen, Potmen and Men applying asphalt, lay-kold, creosote, lime caustic and similar type materials
Laborer, Fence Erector
Material Hoseman (Walls, Slabs, Floors and Decks)
Operators of Pneumatic, Gas, Electric Tools, Vibrating Machines, Pavement Breakers, Air Blasting, Come-Alongs, and similar mechanical tools not separately classified herein; operation of remote controlled robotic tools in connection with Laborers work
Pipelayer's backup man, coating, grouting, making of joints, sealing, caulking, diapering and including rubber gasket joints, pointing and any and all other services
Power Post Hole Digger
Rock Slinger
Rotary Scarifier or Multiple Head Concrete Chipping Scarifier
Steel Headerboard Man and Guideline Setter
Trenching Machine, Hand Propelled

GROUP 4

Any Worker Exposed to Raw Sewage
Asphalt Raker, Luteman, Ironer, Asphalt Dumpman, and Asphalt Spreader
Boxes (all types)
Concrete Core Cutter (walls, floors or ceilings), Grinder or Sander
Concrete Saw Man, Cutting Walls or Flat Work, Scoring old or new concrete
Cribber, Shorer, Lagging, Sheeting and Trench Bracing, Hand-Guided Lagging Hammer
Head Rock Slinger
Laborer, Asphalt-Rubber Distributor Bootman
Laser Beam in connection with Laborer's work
Oversize Concrete Vibrator Operator, 70 pounds and over
Pipelayer
Prefabricated Manhole Installer
Sandblaster (Nozzleman), Water Blasting, Porta Shot-Blast
Traffic Lane Closure, certified

GROUP 5

Blasters Powderman
Driller
Toxic Waste Removal
Welding, certified or otherwise in connection with Laborers' work

GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS
PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1770, 1773 AND 1773.1
FOR COMMERCIAL BUILDING, HIGHWAY, HEAVY CONSTRUCTION AND DREDGING PROJECTS

CRAFT: # CARPENTER AND RELATED TRADES

DETERMINATION: SC-23-31-2-2015-1

ISSUE DATE: August 22, 2015

EXPIRATION DATE OF DETERMINATION: June 30, 2016* Effective until superseded by a new determination issued by the Director of Industrial Relations. Contact the Office of the Director – Research Unit at (415) 703-4774 for new rates after 10 days from the expiration date, if no subsequent determination is issued.

LOCALITY: All localities within Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura counties.

Classification (Journey person)	Basic Hourly Rate	Employer Payments					Straight-Time		Overtime Hourly Rate		
		Health and Welfare	Pension	Vacation/ Holiday	Training	Other	Hours	Total Hourly Rate	Daily ^a	Saturday ^b	Sunday and Holiday
									1 1/2X	1 1/2X	
^a AREA 1											
Carpenter ^{c, i} , Cabinet Installer, Insulation Installer, Hardwood Floor Worker, Acoustical Installer	\$40.40	\$6.60	\$4.41	\$3.45 ^f	\$0.57	\$0.34	8	\$55.77	\$75.97	\$75.97	\$96.17
Pile Driverman ^j , Derrick Bargeman, Rockslinger, Bridge or Dock Carpenter, Cable Splicer	40.53	6.60	4.41	3.45 ^f	0.57	0.34	8	55.90	76.165	76.165	96.43
Bridge Carpenter ^c	40.53	6.60	4.41	3.45 ^f	0.57	0.34	8	55.90	76.165	76.165	96.43
Shingler ^c	40.53	6.60	4.41	3.45 ^f	0.57	0.34	8	55.90	76.165	76.165	96.43
Saw Filer	40.49	6.60	4.41	3.45 ^f	0.57	0.34	8	55.86	76.105	76.105	96.35
Table Power Saw Operator	40.50	6.60	4.41	3.45 ^f	0.57	0.34	8	55.87	76.12	76.12	96.37
Pneumatic Nailer or Power Stapler	40.65	6.60	4.41	3.45 ^f	0.57	0.34	8	56.02	76.345	76.345	96.67
Roof Loader of Shingles	28.37	6.60	4.41	3.45 ^f	0.57	0.34	8	43.74	57.925	57.925	72.11
Scaffold Builder	31.60	6.60	4.41	3.45 ^f	0.57	0.34	8	46.97	62.77	62.77	78.57
Millwright ^c	40.90	6.60	4.41	3.45 ^f	0.57	0.54	8	56.47	76.92	76.92	97.37
Head Rockslinger	40.63	6.60	4.41	3.45 ^f	0.57	0.34	8	56.00	76.315	76.315	96.63
Rock Bargeman or Scowman	40.43	6.60	4.41	3.45 ^f	0.57	0.34	8	55.80	76.015	76.015	96.23
Diver, Wet (Up To 50 Ft. Depth) ^d	^c 89.06	6.60	4.41	3.45 ^f	0.57	0.34	8	104.43	148.96	148.96	193.49
Diver, (Stand-By) ^d	^c 44.53	6.60	4.41	3.45 ^f	0.57	0.34	8	59.90	82.165	82.165	104.43
Diver's Tender ^d	43.53	6.60	4.41	3.45 ^f	0.57	0.34	8	58.90	80.665	80.665	102.43
Assistant Tender (Diver's) ^d	40.53	6.60	4.41	3.45 ^f	0.57	0.34	8	55.90	76.165	76.165	96.43

^a AREA 2

Carpenter ^{c, i} , Cabinet Installer, Insulation Installer, Hardwood Floor Worker, Acoustical Installer	39.83	6.60	4.41	3.45 ^f	0.57	0.34	8	55.20	75.115	75.115	95.03
Shingler ^c	39.97	6.60	4.41	3.45 ^f	0.57	0.34	8	55.34	75.325	75.325	95.31
Saw Filer	39.83	6.60	4.41	3.45 ^f	0.57	0.34	8	55.20	75.115	75.115	95.03
Table Power Saw Operator	40.93	6.60	4.41	3.45 ^f	0.57	0.34	8	56.30	76.765	76.765	97.23
Pneumatic Nailor or Power Stapler	40.09	6.60	4.41	3.45 ^f	0.57	0.34	8	55.46	75.505	75.505	95.55
Roof Loader of Shingles	27.98	6.60	4.41	3.45 ^f	0.57	0.34	8	43.35	57.34	57.34	71.33

DETERMINATION: SC-31-741-1-2016-1

ISSUE DATE: February 22, 2016

EXPIRATION DATE OF DETERMINATION: May 31, 2016** The rate to be paid for work performed after this date has been determined. If work will extend past this date, the new rate must be paid and should be incorporated in contracts entered into now. Contact the Office of the Director – Research Unit for specific rates at (415) 703-4774.

LOCALITY: All localities within Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura counties.

Classification (Journey person)	Basic Hourly Rate	Employer Payments				Straight-Time		Overtime Hourly Rate		
		Health and Welfare	Pension	Vacation/ and Holiday	Training	Hours	Total Hourly Rate	Daily 1 1/2X	Saturday/ Sunday 1 1/2X	Holiday 2X
Terrazzo Installer	\$37.50	6.60	4.41	3.38 ^f	0.42	8	52.31	71.06	71.06	89.81
Terrazzo Finisher	31.00	6.60	4.41	3.38 ^f	0.42	8	45.81	61.31	61.31	76.81

Indicates an apprenticeable craft. The current apprentice wage rates are available on the Internet @ <http://www.dir.ca.gov/OPRL/PWAppWage/PWAppWageStart.asp>. To obtain any apprentice wage rates as of July 1, 2008 and prior to September 27, 2012, please contact the Division of Apprenticeship Standards or refer to the Division of Apprenticeship Standards' website at <http://www.dir.ca.gov/das/das.html>.

- AREA 1** - Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura counties.
- AREA 2** - Inyo, Kern, and Mono counties. For Bridge Carpenter, Scaffold Builder, Pile Driverman, Derrick Bargeman, Rockslinger, Bridge or Dock Carpenter, Cable Splicer, Millwright, Head Rockslinger, Rock Bargeman or Scowman, Diver, Wet (Up to 50 Ft. Depth), Diver (Stand-By), Diver's Tender, and Assistant Tender (Diver's) rates, please see **Area 1** as this rate applies to **Area 2** as well. Basic Hourly Rates for **Area 2** include an additional amount deducted for vacation/holiday.
- First eight (8) hours worked paid at 1 1/2 times the straight time rate, all hours after that paid at double (2x) the straight time rate. Saturdays in the same work week may be worked at straight-time rates if a job is shut down during the normal work week due to inclement weather, major mechanical breakdown or lack of materials beyond the control of the Employer.
- When performing welding work requiring certification, classification will receive an additional \$1.00 per hour.
- Shall receive a minimum of 8 hours pay for any day or part thereof.
- For specific rates over 50 ft depth, contact the Office of the Director – Research Unit. Rates for Technicians, Manifold Operators, Pressurized Submersible Operators, Remote Control Vehicle Operators, and Remote Operated Vehicle Operators, as well as rates for Pressurized Bell Diving and Saturation Diving are available upon request.
- Includes an amount for supplemental dues.
- All overtime worked Mon - Fri shall be paid at 1 1/2 times the straight time rate for the first four (4) hours and double (2x) the straight time for work performed after twelve (12) hours.
- Saturdays in the same work week may be worked at straight-time rates if a job is shut down during the normal work week due to inclement weather, major mechanical breakdown or lack of materials beyond the control of the Employer. Work on Sunday, if it is the 7th consecutive workday, shall be paid at double (2x) the straight-time rate.
- A Carpenter who performs work of forming in the construction of open cut sewers or storm drains shall receive a premium of thirteen cents (\$0.13) per hour in addition to his Carpenter's scale. This premium shall apply only on an operation in which horizontal lagging is used in conjunction with Steel H-Beams driven or placed in pre-drilled holes, for that portion of a lagged trench against which concrete is poured, namely, as a substitute for back forms, which work is performed by pile drivers.
- When performing welding work requiring certification, classification will receive an additional \$1.00 per hour. An additional \$0.50 per hour when handling or working with new pressure-treated creosote piling or timber, or driving of used pressure-treated creosote piling.

RECOGNIZED HOLIDAYS: Holidays upon which the general prevailing hourly wage rate for Holiday work shall be paid, shall be all holidays in the collective bargaining agreement, applicable to the particular craft, classification, or type of worker employed on the project, which is on file with the Director of Industrial Relations. If the prevailing rate is not based on a collectively bargained rate, the holidays upon which the prevailing rate shall be paid shall be as provided in Section 6700 of the Government Code. You may obtain the holiday provisions for the current determinations on the Internet at <http://www.dir.ca.gov/OPRL/PWD>. Holiday provisions for current or superseded determinations may be obtained by contacting the Office of the Director – Research Unit at (415) 703-4774.

TRAVEL AND/OR SUBSISTENCE PAYMENT: In accordance with Labor Code Sections 1773.1 and 1773.9, contractors shall make travel and/or subsistence payments to each worker to execute the work. You may obtain the travel and/or subsistence provisions for the current determinations on the Internet at <http://www.dir.ca.gov/OPRL/PWD>. Travel and/or subsistence requirements for current or superseded determinations may be obtained by contacting the Office of the Director – Research Unit at (415) 703-4774.

ITEM # _____ F7

DATE: December 7, 2016

TO: Board Chair Sam Spagnolo and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Jennifer M. Sims, Director of Procurement

**SUBJECT: AUTHORIZE AWARD – CONTRACT MNT17-39
LANDSCAPING SERVICES**

FORM MOTION

Authorize the CEO/General Manager to award Contract MNT17-39 to RP Landscape and Irrigation of San Bernardino, CA, for the provision of Landscaping Services for a three (3) year base period with the authority to exercise two (2) single option years ending no later than January 11, 2022, in the amount of \$308,532, with the option to provide services at the San Bernardino Downtown Metrolink Station in the amount of \$25,440, a repair allowance in the amount of \$50,096, plus a ten percent contingency of \$38,407, for a total not-to-exceed amount of \$422,475, should all options be exercised.

BACKGROUND

On September 30, 2016, Omnitrans' Board of Directors authorized the release of Invitation for Bids IFB-MNT17-39 for the provision landscape services. The solicitation requested bids to provide landscaping services at Omnitrans' facilities (East Valley, West Valley, and "I" Street) the San Bernardino Transit Center, the sbX Green line corridor, stations, and park and rides with the option to add services at the San Bernardino Downtown Metrolink Station.

Notices were published in two (2) local newspapers of general circulation, two (2) minority papers, and posted on Omnitrans' online bidding system. Five (5) bids were received by the November 2, 2016 deadline and all bids were found to be responsive.

Listed below are the bid prices from lowest to highest:

Company	*Total
RP Landscape and Irrigation	\$ 333,972
Advanced Environmental Landscape Design & Consulting, LLC	\$ 490,220
Charles T. Andrews, Inc. DBA CTAI Pacific Greenscape	\$ 506,460
Priority Landscape Service	\$ 512,580
Mariposa Landscapes, Inc.	\$1,465,632

*If all options are exercised.

Award is recommended to the lowest responsive and responsible bidder, RP Landscape and Irrigation, in the amount \$333,972. The independent cost estimate of \$455,780 was based on market conditions. RP Landscape & Irrigation is the incumbent and consistently bids lower than market. Their performance on the current contract met Omnitrans' requirements and staff will regularly monitor the services provided. RP Landscape & Irrigation is a local vendor based out of San Bernardino.

FUNDING SOURCE

The cost associated with this procurement is budgeted in the Maintenance Department's Operating Budget as follows:

Department 1200
Expenditure Code 505210

_____ Verification of Funding Sources and Availability of Funds.
(Verified and initialed by Finance)

Short Range Transit Plan/Strategic Initiative Supported – N/A

CONCLUSION

By proceeding with this award, Omnitrans' properties will be aesthetically maintained.

PSG:JMS:KT



CONTRACT AGREEMENT

between

RP Landscaping & Irrigation
PO Box 1200
San Bernardino, CA 92402

(hereinafter "CONTRACTOR")
Telephone: (909) 889-9987
Email: rplandscapeinc@aol.com

And

Omnitrans
1700 West Fifth Street
San Bernardino, CA 92411
(hereinafter "OMNITRANS")

CONTRACT DOCUMENTS

CONTRACT NO. MNT17-39

LANDSCAPING SERVICES

Contract Amount: \$178,440

Omnitrans Project Manager:

Name: Mark Montgomery
Title: Facilities Manager
Telephone: (909) 379-7175
Email: mark.montgomery@omnitrans.org

Contract Administrator:

Name: Krystal N. Turner
Title: Contract Administrator
Telephone: (909) 379-7202
Email: krystal.turner@omnitrans.org



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ATTACHMENT A – SCOPE OF WORK

ATTACHMENT B – REGULATORY REQUIREMENTS

ATTACHMENT C - PRICING

ATTACHMENT D - FORMS

This Agreement is made and entered into as of this 12th day of January, 2017, and between Omnitrans (hereinafter referred to as "OMNITRANS") and RP Landscape & Irrigation (hereinafter referred to as "CONTRACTOR").

RECITALS

WHEREAS, OMNITRANS is a joint powers authority organized under Sections 6500 et seq. of the California Government Code with power to contract for services described in Attachment A to this Agreement entitled "Attachment A, Scope of Work" (hereinafter referred to as "Work");

WHEREAS, CONTRACTOR has indicated it is qualified to perform such services and (1) has reviewed all the available data furnished by OMNITRANS pertinent to the Work to be rendered; (2) has inspected and reviewed the Work to be rendered; (3) will exercise the ordinary care and skill expected of a practitioner in its profession; and (4) is willing to accept responsibility of performing the Work set forth in this Agreement for the compensation and in accordance with the terms, requirements and conditions herein specified;

NOW, THEREFORE, for the consideration hereinafter stated, the parties agree as follows:

1. SCOPE OF WORK

- A. CONTRACTOR will perform the Work and related tasks as described in Attachment A, Scope of Work hereto and is incorporated by reference into and made a part of this Agreement.
- B. This is a non-exclusive Agreement, whereby OMNITRANS may, at its sole discretion, augment or supplant the Work with its own forces or forces of another contractor or entity. CONTRACTOR will cooperate fully with OMNITRANS' staff or other contractor or entity that may be providing similar or the same Work for OMNITRANS.

2. PERIOD OF PERFORMANCE

The term of this Agreement shall be from the date of execution of this Agreement and continue in effect through January 11, 2020, unless terminated as specified in Section 10 and 11 of this Agreement. Omnitrans has no obligation to purchase any specified amount of products/services. All applicable indemnification provisions in this Agreement shall remain in effect following the termination of this Agreement.

Omnitrans' election to extend the Agreement beyond the Initial Term shall not diminish its right to terminate the Agreement for Omnitrans' convenience or CONTRACTORS default as provided elsewhere in this Agreement. The "maximum term" of this Agreement shall be the period extended from January 12, 2020 through January 11, 2022, which period encompasses the Initial Term and the Option Year One and Option Year Two.

3. CONTRACT OPTIONS

- A. Omnitrans will have the unilateral right in the contract by which, for a specified time, Omnitrans may elect to purchase additional services called for by the contract, or may elect to extend the term of the contract. The requirements below apply:
 - 1) Any options that were requested by Omnitrans and/or contained in the Contractor's PROPOSAL or offer must have been evaluated in making the contract award prior to exercising any such options.
 - 2) Since Contractor's proposed pricing for the option years and additional services are considered in evaluating the Contractor's original proposal and form the basis for awarding the contract, Contractor shall be bound by the proposal pricing for additional services and/or option years, unless otherwise provided herein.
- B. Omnitrans will provide a minimum of thirty days (30) written notice to the Contractor of Omnitrans' exercise of its option to extend the contract years. Omnitrans may give notice of its exercise of the option for additional services at any time during the term of the contract. The minimum time for the written notice may be waived by mutual agreement.

4. COMPENSATION

For CONTRACTOR's full and complete performance of its obligations under this Agreement, OMNITRANS shall pay CONTRACTOR on a FIXED PRICE basis at the fully burdened fixed rates shown in Attachment C, and subject to the maximum cumulative payment obligation.

OMNITRANS' maximum cumulative payment obligation under this Agreement shall not exceed One Hundred Seventy Eight Thousand, Four Hundred Forty Dollars (\$178,440), including all amounts payable to CONTRACTOR for all costs, including but not limited to direct labor, other direct costs, subcontracts, indirect costs including, but not limited to, leases, materials, taxes, insurance, and profit.

5. INVOICING AND PAYMENT

- A. CONTRACTOR shall invoice OMNITRANS on a monthly basis no later than the 15th of each month. CONTRACTOR shall furnish information as may be requested by OMNITRANS to substantiate the validity of an invoice.

CONTRACTOR shall submit invoices in duplicate to:

OMNITRANS
1700 West Fifth Street
San Bernardino, CA 92411
Attn: Accounts Payable
Accountspayable@omnitrans.org

A separate invoice shall be used for each shipment. Each invoice shall include, at minimum, the following information:

- Contract number
- Invoice number
- Description of delivery
- Delivery Date
- Total quantity delivered
- Information as requested by OMNITRANS

- B. OMNITRANS shall remit payment within thirty (30) calendar days of approval of the invoices by OMNITRANS' Project Manager.

In the event OMNITRANS should overpay CONTRACTOR, such overpayment shall not be construed as a waiver of OMNITRANS' right to obtain reimbursement for the overpayment. Upon discovering any overpayment, either on its own or upon notice of OMNITRANS, CONTRACTOR shall immediately reimburse OMNITRANS the entire overpayment or, at its sole discretion, OMNITRANS may deduct such overpayment amount from monies due to CONTRACTOR under this Agreement or any other Agreement between OMNITRANS and CONTRACTOR.

C. TITLE

- a. Title shall pass to Omnitrans at the time of payment.
- b. The title transferred as above shall in each case be good, and free and clear from any and all security interests, liens, and/or other encumbrances.
- c. The transfer of title as specified above shall not imply Acceptance by Omnitrans, nor relieve the Contractor from the responsibility for strict compliance with the Contract, including warranty as specified in the Article entitled Warranty of Work, and for any loss of or damage to the Work.
- d. The Contractor at its own expense shall promptly execute, acknowledge, and deliver to the Omnitrans proper bills of sale or other written instruments of title in a form as required by Omnitrans; said instruments shall convey to the Omnitrans' title free and clear of debts, claims, liens, mortgages, taxes, and/or encumbrances.
- e. Contractor shall have title to and bear the risk of any loss of or damage to Work purchased hereunder until they are delivered, unloaded, and received by Omnitrans at the FOB Destination specified herein. Contractor's responsibility for loss or damage except for loss or damage resulting from Contractor's negligence, shall cease when title passes to Omnitrans.

6. AUDIT AND INSPECTION OF RECORDS

CONTRACTOR agrees that OMNITRANS or any duly authorized representative shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, time cards, employment records or other records relating to this Agreement. Such material, including all pertinent cost, accounting, financial records, and proprietary data must be kept and maintained by CONTRACTOR for a period of three (3) years after completion of this Agreement unless OMNITRANS' written permission is given to CONTRACTOR to dispose of material prior to this time.

7. NOTIFICATION

All notices hereunder concerning this Agreement and the Work to be performed shall be physically transmitted by courier, overnight, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

To OMNITRANS:

Omnitrans
1700 West Fifth Street
San Bernardino, CA 92411
Attn: Krystal Turner
Contract Administrator

To CONTRACTOR:

RP Landscape & Irrigation
PO Box 1200
San Bernardino, CA 92402
Attn: Roy Perez
Owner

8. OMNITRANS' AND CONTRACTOR'S REPRESENTATIVES

A. OMNITRANS' Project Manager

Contracting Officer: OMNITRANS' CEO/General Manager or his authorized designee who has authority to execute contracts on behalf of OMNITRANS.

Project Manager: Mark Montgomery, Facilities Manager.

- a. Except as expressly specified in this Agreement, the Contracting Officer may exercise any powers, rights and/or privileges that have been lawfully delegated by OMNITRANS. Nothing in this Agreement should be construed to bind OMNITRANS for acts of its officers, employees, and/or agents that exceed the delegation of authority specified herein.
- b. The Contracting Officer has delegated to the Project Manager certain powers and duties in connection with this Agreement. The Project Manager is the authorized representative of the Contracting Officer for matters related to this Agreement. The Project Manager or his/her designee is empowered to:
 1. Have general oversight of the Work and this Agreement, including the power to enforce compliance with this Agreement.
 2. Reserve the right to remove any portion of the Work from CONTRACTOR which have not been performed to OMNITRANS' satisfaction.
 3. Subject to the review and acceptance by OMNITRANS, negotiate with CONTRACTOR all adjustments pertaining to this Agreement for revision.
- c. In addition to the foregoing, the Project Manager shall have those rights and powers expressly set forth in other sections of this Agreement.

B. Contractor's Key Personnel

The following are CONTRACTOR's key personnel and their associated roles in the Work to be provided:

<u>Name</u>	<u>Role</u>
Roy Perez	Owner
Ryan Perez	Grounds Supervisor
Michael Reyes	Irrigation Technician
Leo Sanchez	Grounds Keeping Worker
Barnabe Silva	Grounds Keeping Worker
Jesse Tabera	Landscape Crew Leader
Carlos Torres	Grounds Keeping Worker

Any propose/substitution or replacement by Contractor of Contractor's key personnel shall ensure that such person possesses the same or better expertise and experience than the key personnel being substituted or replaced. Omnitrans reserves the right to interview such person to ascertain and verify if such proposed substitution or replacement does in deed possess such expertise and experience.

OMNITRANS awarded this Agreement to CONTRACTOR based on OMNITRANS' confidence and reliance on the expertise of CONTRACTOR's key personnel described above. CONTRACTOR shall not reassign key personnel or assign other personnel to key personnel roles until CONTRACTOR obtains prior written approval from OMNITRANS.

9. DISPUTE RESOLUTION

Any disputes between the successful CONTRACTOR and OMNITRANS relating to the implementation or administration of the Contract shall be resolved in accordance with this section.

- A. The parties shall first attempt to resolve the dispute informally in meetings or communications between proposer and OMNITRANS.
- B. If the dispute remains unresolved fifteen (15) days after it first arises, proposer may request that Omnitrans' CEO/General Manager issue a recommended decision on the matter in dispute. Omnitrans'

CEO/General Manager shall issue the recommended decision in writing and provide a copy to proposer.

- C. If the dispute remains unresolved after review by Omnitrans' CEO/General Manager, either party may seek judicial resolution of the dispute in an appropriate Court of the State of California.
- D. Pending final resolution of a dispute under this section, proposer shall proceed diligently with performance in accordance with the Contract and Omnitrans' CEO/General Manager's recommended decision.

10. TERMINATION FOR CONVENIENCE

OMNITRANS may terminate this Agreement in whole or in part for OMNITRANS' convenience. Omnitrans' CEO/General Manager shall terminate this Agreement by a written Notice of Termination to CONTRACTOR specifying the nature, extent, and effective date of the termination. Upon receipt of the notice of termination, CONTRACTOR shall immediately discontinue all Work affected and deliver all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Agreement, whether completed or in process, to Omnitrans' CEO/General Manager. OMNITRANS shall make an equitable adjustment in the Agreement for Work already performed, but shall not allow anticipated profit on unperformed services. Force Majeure shall apply.

11. TERMINATION FOR BREACH OF AGREEMENT

- A. If CONTRACTOR fails to perform any of the provisions of this Agreement or so fails to make progress as to endanger timely performance of this Agreement, OMNITRANS may give CONTRACTOR written notice of such default. If CONTRACTOR does not cure such default or provide a plan to cure such default which is acceptable to OMNITRANS within the time permitted by OMNITRANS, then OMNITRANS may terminate this Agreement due to CONTRACTOR's breach of this Agreement.
- B. If a federal or state proceeding for relief of debtors is undertaken by or against CONTRACTOR, or if CONTRACTOR makes an assignment for the benefit of creditors, then OMNITRANS may immediately terminate this Agreement.
- C. If CONTRACTOR violates Section 28, Compliance with Lobbying Policies, of this Agreement, then OMNITRANS may immediately terminate this Agreement.
- D. In the event OMNITRANS terminates this Agreement as provided in this Section, OMNITRANS may procure, upon such terms and in such manner as OMNITRANS may deem appropriate, Work similar in scope and level of effort to those so terminated, and CONTRACTOR shall be liable to

OMNITRANS for all of its costs and damages, including, but not limited, any excess costs for such Work.

- E. All finished or unfinished documents and materials produced or procured under this Agreement shall become OMNITRANS' property upon date of such termination.
- F. If, after notice of termination of this Agreement under the provisions of this Section, it is determined for any reason that CONTRACTOR was not in default under the provisions of this Section, or that the default was excusable under the terms of this Agreement, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Section 10, Termination for Convenience.
- G. The rights and remedies of OMNITRANS provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

12. ASSIGNMENT

This Agreement, any interest herein or claim hereunder, may not be assigned by CONTRACTOR either voluntarily or by operation of law, nor may all or any part of this Agreement be subcontracted by CONTRACTOR, without the prior written consent of OMNITRANS. Consent by OMNITRANS shall not be deemed to relieve CONTRACTOR of its obligations to comply fully with all terms and conditions of this Agreement.

13. SUBCONTRACTING

OMNITRANS hereby consents to CONTRACTOR's subcontracting of portions of the Work to the parties identified below for the functions described in CONTRACTOR's proposal. CONTRACTOR shall include in each subcontract agreement the stipulation that CONTRACTOR, not OMNITRANS, is solely responsible for payment to the subcontractor for all amounts owing and that the subcontractor shall have no claim, and shall take no action against OMNITRANS, Member Agencies or officers, directors, employees or sureties thereof for nonpayment by CONTRACTOR.

Subcontractor's Name and Address	Work to Be Performed
N/A	N/A

14. INDEPENDENT CONTRACTOR

CONTRACTOR's relationship to OMNITRANS in the performance of this Agreement is that of an independent Contractor. CONTRACTOR's personnel performing Work under this Agreement shall at all times be under CONTRACTOR's exclusive direction and control and shall be employees of CONTRACTOR and not employees of OMNITRANS. CONTRACTOR shall pay all wages, salaries and other amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.

15. INSURANCE

A. INSURANCE REQUIREMENTS

1) General Requirements for Contractor

- a. Without limiting or diminishing the Contractor's obligation to indemnify or hold Omnitrans harmless, Contractor shall procure, prior to commencement of the services required under this contract and maintain for the duration of the contract at its own expense, insurance of the kinds and in the amounts as indicated below;
- b. Provide Omnitrans with valid original certificates of insurance and endorsements showing Omnitrans as an additional insured.

2) Deductibles or Self-Insured Retention (SIR)

SIR must be declared to and approved by Omnitrans. At the option of Omnitrans, either: the insurer shall reduce or eliminate such deductibles or SIR or Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

3) Other Insurance Provisions

a. Commercial General Liability and Automobile Liability

Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed operations liability, personal and advertising injury covering claims which may arise from or out of Contractor's performance of its obligations hereunder and if Contractor's vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then Contractor shall maintain liability insurance for all owned, non-owned or hired vehicles so used. Policy shall name Omnitrans, its officers, officials, employees, agents and volunteers as additional insured as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor;

premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations of the scope of protection afforded Omnitrans, its officers, officials, employees, agents, and volunteers.

1. For any claims related to this project, Contractor's insurance coverage shall be primary insurance as respects Omnitrans, its officers, officials, employees, agents, and volunteers. Any insurance and/or deductibles and/or self-insured retentions or self-insured programs maintained by Omnitrans, its officers, officials, employees, agents, and volunteers shall be excess of Contractor's insurance and shall not be construed as contributory.
2. Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to Omnitrans.

b. Workers' Compensation

If the Contractor has employees as defined by the State of California, the Contractor shall maintain statutory Workers' compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of Omnitrans and, if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement.

c. Care, Custody, and Control

Contractor shall insure any Omnitrans property while under its Care, Custody, and Control according to the requirements listed in the insurance coverage required.

4) Acceptability of Insurers

Insurance companies shall be State of California admitted or approved and have a current **A.M. Best's** rating of no less than **A:VIII**.

5) Verification of Coverage

- a. Contractor shall furnish Omnitrans with original endorsements affecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All insurance certificates and endorsements

are to be received and approved by Omnitrans before work commences.

- b. As an alternative, Contractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.
- c. In lieu of purchasing insurance and providing original endorsements and or certificates of insurance, the Contractor may provide proof of self-insurance; such proof must be to the satisfaction of Omnitrans.

6) Subcontractors

Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

7) Notification of Terminated Insurance

Insurance shall not be terminated or expire without thirty (30) days written notice, and are required to be maintained in force until completion of the contract.

B. MINIMUM INSURANCE COVERAGE

If the Contractor maintains broader coverage and/or higher limits than the minimum requirements shown below, Omnitrans requires and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor.

- 1) ☒ **Commercial General Liability including Products/Completed Operations:** \$1,000,000; per occurrence for bodily and property damage liability and \$2,000,000 aggregate; *Omnitrans named and endorsed as an Additional Insured.*
- 2) ☒ **Automobile Liability:** \$1,000,000; per occurrence for bodily and property damage liability and aggregate; *Omnitrans named and endorsed as an Additional Insured.*
- 3) ☐ **Errors and Omissions Liability:** \$1,000,000; combined single limit bodily and property damage liability per occurrence and \$ 3,000,000 aggregate or,
- 4) ☐ **Professional Liability:** \$1,000,000; per occurrence and aggregate.
- 5) ☒ **Workers' Compensation:** statutory limits or,

- 6) ☐ **Self Insurance Program:** a State Approved program in an amount and form that meets all applicable requirements of the Labor Code of the State of California.
- 7) ☒ **Employer's Liability:** \$1,000,000; per occurrence.
- 8) ☐ **Environmental Liability:** \$1,000,000; per occurrence and aggregate; *Omnitrans named and endorsed as an Additional Insured.*
- 9) ☐ **Umbrella Policy:** \$4,000,000; per occurrence and aggregate Additional coverage for the above policies, *Omnitrans Additional Insured.*
- 10) ☐ All drivers making deliveries of products specified on this solicitation shall have Hazardous Materials Endorsements on their Commercial Drivers License, and such other Endorsements as may be required by relevant laws and/or regulations.

16. INDEMNITY

CONTRACTOR shall indemnify, defend and hold harmless OMNITRANS, and its member agencies, and their officers, directors, employees and agents from and against any and all liability, expense (including, but not limited to, defense costs and attorneys' fees), claims, causes of action, and lawsuits for damages of any nature whatsoever, including, but not limited to, bodily injury, death, personal injury or property damage (including property of CONTRACTOR) arising from or connected with any alleged act and/or omission of CONTRACTOR, its officers, directors, employees, agents, Subcontractors or suppliers. This indemnity shall survive termination or expiration of this Agreement and/or final payment thereunder.

17. REVISIONS IN SCOPE OF WORK

By written notice or order, OMNITRANS may, from time to time, order work suspension or make changes to this Agreement. Changes in the Work shall be mutually agreed to and incorporated into an amendment to this Agreement. Upon execution of an amendment, CONTRACTOR shall perform the Work, as amended.

18. RIGHTS IN TECHNICAL DATA

- A. No material or technical data prepared by CONTRACTOR under this Agreement is to be released by CONTRACTOR to any other person or entity except as necessary for the performance of the Work. All press releases or information concerning the Work that might appear in any publication or dissemination, including but not limited to, newspapers, magazines, and electronic media, shall first be authorized in writing by OMNITRANS.

- B. The originals of all letters, documents, reports and other products and data produced under this Agreement shall become the property of OMNITRANS without restriction or limitation on their use and shall be made available upon request to OMNITRANS at any time. Original copies of such shall be delivered to OMNITRANS upon completion of the Work or termination of the Work. CONTRACTOR shall be permitted to retain copies of such items for the furtherance of its technical proficiency; however, publication of this material is subject to the prior written approval of OMNITRANS. The provisions of this paragraph shall survive termination or expiration of this Agreement and/or final payment thereunder.

19. OWNERSHIP OF REPORTS AND DOCUMENTS

The originals of all letters, documents, reports and other products and data produced under this Agreement shall be delivered to, and become the sole and exclusive property of OMNITRANS. Copies may be made for CONTRACTOR's records, but shall not be furnished to others without prior written authorization from OMNITRANS. Such deliverables shall be deemed works made for hire, and all rights in copyright therein shall be retained by OMNITRANS.

20. OWNERSHIP RIGHTS

- A. In the event OMNITRANS rightfully obtains copies of Proprietary Data under the terms of the separate License Agreement and Escrow Agreement that govern rights in Documentation, Software and Intellectual Property created and/or developed by Contractor, its Third Party Software Contractors and its Suppliers as part of the Project, any derivative works and associated documentation created by or on behalf of OMNITRANS by Permitted Programmers (as defined in the License Agreement) shall be the sole and exclusive property of OMNITRANS (collectively, "OMNITRANS Intellectual Property"), and OMNITRANS may use, disclose and exercise dominion and full rights of ownership, in any manner in OMNITRANS Intellectual Property in connection with the use, operation and maintenance of a transportation system administered by OMNITRANS. No use of OMNITRANS Intellectual Property shall be made for any purpose other than in conjunction with a transportation system administered by CONTRACTOR, and OMNITRANS shall not sell, lease, rent, give away or otherwise disclose any OMNITRANS Intellectual Property to any outside third party other than Permitted Programmers. To the extent there may be any question of rights of ownership or use in any OMNITRANS Intellectual Property, Contractor shall require all of its subcontractors and suppliers (including without limitation its Third Party Software Contractors) to assign to OMNITRANS, all worldwide right, title and interest in and to all OMNITRANS Intellectual Property in a manner consistent with the foregoing terms of this paragraph. Contractor shall

execute any documents as OMNITRANS may from time to time reasonably request to effectuate the terms of this paragraph.

- B. All documentation and Software which predates this Contract and which otherwise owned by Contractor or its Third Party Software Contractors, and all Documentation and Software which is created by Contractor or its Third Party Software Contractors shall be Licensed Software or Licensed Documentation, as appropriate. All Licensed Software and Licensed Documentation shall be governed by the License Agreement by and between the parties of event date herewith.

21. WORK FOR HIRE

Any work created or produced as a part of this Agreement that may be defined under Section 101, Title 17, USC will be considered “work for hire” as it pertains to ownership rights. CONTRACTOR, by his/her endorsement hereon agrees that all rights to any work(s) created or produced are waived, and that ownership rests with OMNITRANS. CONTRACTOR further agrees to ensure transfer of all rights to such work(s), as defined under federal copyright law, that may be created or produced under this Agreement by its suppliers, contractors or subcontractors.

22. SUBMITTAL OF CLAIMS BY CONTRACTOR

CONTRACTOR shall file any and all claims with OMNITRANS’ Project Manager in writing within thirty (30) days of the event or occurrence giving rise to the claim. The claim shall be in sufficient detail to enable OMNITRANS to ascertain the claim’s basis and amount, and shall describe the date, place and other pertinent circumstances of the event or occurrence giving rise to the claim and the indebtedness, obligation, injury, loss or damages allegedly incurred by CONTRACTOR.

Even though a claim may be filed and/or in review by OMNITRANS, CONTRACTOR shall continue to perform in accordance with this Agreement.

23. EQUAL OPPORTUNITY

CONTRACTOR shall not discriminate against, or grant preferential treatment to, any individual or group, or any employee or applicant for employment because of race, age, religion, color, ethnicity, sex, national origin, ancestry, physical disability, mental disability, political affiliation, sexual orientation, marital status or other status protected by law. CONTRACTOR shall take action to ensure that applicants and employees are treated without regard to the above.

24. STANDARD OF PERFORMANCE

- A. CONTRACTOR shall perform and exercise, and require its subcontractors to perform and exercise due professional care and competence in the

performance of the Work in accordance with the requirements of this Agreement. CONTRACTOR shall be responsible for the professional quality, technical accuracy, completeness and coordination of the Work, it being understood that OMNITRANS will be relying upon such professional quality, accuracy, completeness and coordination in utilizing the Work. The foregoing obligations and standards shall constitute the "Standard of Performance" for purposes of this Agreement. The provisions of this paragraph shall survive termination or expiration of this Agreement and/or final payment thereunder.

- B. All workers shall have sufficient skill and experience to perform the Work assigned to them. OMNITRANS shall have the right, at its sole discretion, to require the immediate removal of CONTRACTOR's personnel at any level assigned to the performance of the Work at no additional fee or cost to OMNITRANS, if OMNITRANS considers such removal in its best interests and requests such removal in writing and such request is not done for illegal reasons. Further, an employee who is removed from performing Work under this Agreement under this Article shall not be re-assigned to perform Work in any other capacity under this Agreement without OMNITRANS' prior written approval.

25. NOTIFICATION OF EMPLOYMENT OF OMNITRANS BOARD MEMBERS/ALTERNATES AND EMPLOYEES

To ensure compliance with OMNITRANS' Ethics Policy, CONTRACTOR shall provide written notice to OMNITRANS disclosing the identity of any individual who CONTRACTOR desires to employ or retain under a contract, and who (1) presently serves as a Board Member/Alternate or an employee of OMNITRANS, or (2) served as a Board Member/Alternate or an employee of OMNITRANS within the previous 12 months of the date of the proposed employment or retention by CONTRACTOR. CONTRACTOR's written notice shall indicate whether the individual will be an officer, principal or shareholder of the entity and/or will participate in the performance of this Agreement.

26. DISQUALIFYING POLITICAL CONTRIBUTIONS

In the event of a proposed amendment to this Agreement, CONTRACTOR shall provide prior to the execution of such amendment, a written statement disclosing any contribution(s) of \$250 or more made by CONTRACTOR or its subcontractor(s) to Omnitrans Board Members/Alternates or employees within the preceding twelve (12) months of the date of the proposed amendment. Applicable contributions include those made by any agent/person/entity on behalf of CONTRACTOR or subcontractor(s).

27. COMPLIANCE WITH LAW

- A. CONTRACTOR shall familiarize itself with and perform the Work required under this Agreement in conformity with requirements and standards of OMNITRANS, municipal and public agencies, public and private utilities, special districts, and railroad agencies whose facilities and work may be affected by Work under this Agreement. CONTRACTOR shall also comply with all Federal, state and local laws and ordinances.
- B. Government regulations that directly affect the CONTRACTOR'S performance of this contract and unforeseen impacts, which neither party could have contemplated at the onset of the contract and have an unconscionable impact on the CONTRACTOR may be given special pricing consideration. The parties, in good faith, shall review established rates and may adopt any mutually agreed new rates, which shall only be effective as agreed upon by the parties. Thorough documentation including all cost elements is required to support the Contractor's claim to any relief under this clause.

28. COMPLIANCE WITH LOBBYING POLICIES

- A. CONTRACTOR agrees that if it is a Lobbyist Employer or if it has retained a Lobbying Firm or Lobbyist, as such terms are defined by OMNITRANS in its Ethics Policy, it shall comply or ensure that its Lobbying Firm and Lobbyist complies with OMNITRANS' Ethics Policy.
- B. If CONTRACTOR (Lobbyist Employer) or its Lobbying Firm or Lobbyist fails to comply, in whole or in part, with OMNITRANS' Ethics Policy, such failure shall be considered a material breach of this Agreement and OMNITRANS shall have the right to immediately terminate or suspend this Agreement.

29. PUBLIC RECORDS ACT

- A. All records, documents, drawings, plans, specifications and other material relating to conduct of OMNITRANS' business, including materials submitted by CONTRACTOR in its proposal and during the course of performing the Work under this Agreement, shall become the exclusive property of OMNITRANS and may be deemed public records. Said materials may be subject to the provisions of the California Public Records Act. OMNITRANS' use and disclosure of its records are governed by this Act.
- B. OMNITRANS will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act, including interpretations of the Act or the definitions of trade secret, confidential or proprietary. OMNITRANS will accept materials clearly and prominently labeled "TRADE SECRET" or "CONFIDENTIAL" or

"PROPRIETARY" as determined by CONTRACTOR. OMNITRANS will endeavor to notify CONTRACTOR of any request of the disclosure of such materials. Under no circumstances, however, will OMNITRANS be liable or responsible for the disclosure of any labeled materials whether the disclosure is required by law or a court order or occurs through inadvertence, mistake or negligence on the part of OMNITRANS or its officers, employees and/or contractors.

- C. In the event of litigation concerning the disclosure of any material submitted by CONTRACTOR, OMNITRANS' sole involvement will be as a stake holder, retaining the material until otherwise ordered by a court. CONTRACTOR, at its sole expense and risk, shall be responsible for prosecuting or defending any action concerning the materials, and shall defend, indemnify and hold OMNITRANS harmless from all costs and expenses, including attorneys' fees, in connection with such action.

30. WAIVER/INVALIDITY

No waiver of a breach of any provision of this Agreement by either party shall constitute a waiver of any other breach of the provision, or of any other breach of the provision of the Agreement. Failure of either party to enforce any provision of this Agreement at any time shall not be construed as a waiver of that provision.

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

31. FORCE MAJEURE

Performance of each and all CONTRACTOR's and OMNITRANS' covenants herein shall be subject to such delays as may occur without CONTRACTOR's or OMNITRANS' fault from acts of God, strikes, riots, or from other similar causes beyond CONTRACTOR's or OMNITRANS' control.

32. CONFIDENTIALITY

CONTRACTOR agrees that for and during the entire term of this Agreement, any information, data, figures, records, findings and the like received or generated by CONTRACTOR in the performance of this Agreement, shall be considered and kept as the private and privileged records of OMNITRANS and will not be divulged to any person, firm, corporation, or other entity except on the direct prior written authorization of OMNITRANS. Further, upon expiration or termination of this Agreement for any reason, CONTRACTOR agrees that it will continue to treat as private and privileged any information, data, figures, records, findings and the like, and will not release any such information to any person, firm, corporation or other entity, either by statement, deposition, or as a witness, except upon direct prior written authority of OMNITRANS.

33. CONTRACTOR'S INTERACTION WITH THE MEDIA AND THE PUBLIC

- A. OMNITRANS shall review and approve in writing all OMNITRANS related copy proposed to be used by CONTRACTOR for advertising or public relations purposes prior to publication. CONTRACTOR shall not allow OMNITRANS related copy to be published in its advertisements and public relations programs prior to receiving such approval. CONTRACTOR shall ensure that all published information is factual and that it does not in any way imply that OMNITRANS endorses CONTRACTOR's firm, service, and/or product.
- B. CONTRACTOR shall refer all inquiries from the news media to OMNITRANS, and shall comply with the procedures of OMNITRANS' Public Affairs staff regarding statements to the media relating to this Agreement or the Work.
- C. If CONTRACTOR receives a complaint from a citizen or the community, CONTRACTOR shall inform OMNITRANS as soon as possible and inform OMNITRANS of any action taken to alleviate the situation.
- D. The provisions of this Article shall survive the termination or expiration of this Agreement.

34. GOVERNING LAW

The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of California, and the proper venue of any action brought hereunder is and shall be the County of San Bernardino, California.

35. MODIFICATIONS TO AGREEMENT

Unless specified otherwise in the Agreement, this Agreement may only be modified by written mutual consent evidenced by signatures of representatives authorized to enter into and modify the Agreement. In order to be effective, amendments may require prior approval by OMNITRANS' Board of Directors, and in all instances require prior signature of an authorized representative of OMNITRANS.

36. LICENSING, PERMITS AND INSPECTION COSTS

- A. The CONTRACTOR warrants that it has all necessary licenses and permits required by the laws of the United States, State of California, and the County of San Bernardino, the Local Jurisdictions, and all other appropriate governmental agencies, and agrees to maintain these licenses and permits in effect for the duration of the Agreement. Further, FIRM warrants that its employees, agents, and contractors and subcontractors shall conduct themselves in compliance with such laws

and licensure requirements including, without limitation, compliance with laws applicable to nondiscrimination, sexual harassment and ethical behavior throughout the duration of this Agreement. CONTRACTOR further warrants that it shall not retain or employ an unlicensed subcontractor to perform work on this Project. CONTRACTOR shall notify OMNITRANS immediately and in writing of its employees', agents', contractors' or subcontractors' inability to obtain or maintain, irrespective of the pendency of any appeal, any such licenses, permits, approvals, certificates, waivers, exemptions. Such inability shall be cause for termination of this Agreement.

- B. CONTRACTOR shall procure all permits and licenses; pay all charges, assessments and fees, as may be required by the ordinances and regulations of the public agencies having jurisdiction over the areas in which the work is located, and shall comply with all the terms and conditions thereof and with all lawful orders and regulations of each such public agency relating to construction operations under the jurisdiction of such agency.

37. PRECEDENCE

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement, and any and all of its Amendments, Appendices, Exhibits and Attachments; (2) provisions of and any and all of its Addenda, Appendices, Exhibits and Attachments; and (3) CONTRACTOR's proposal dated November 2, 2016.

38. ENTIRE AGREEMENT

This Agreement, and any attachments or documents incorporated herein by inclusion or by reference, constitutes the complete and entire agreement between OMNITRANS and CONTRACTOR and supersedes any prior representations, understandings, communications, commitments, agreements or proposals, oral or written.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date shown below, and effective on the date first hereinabove written.

OMNITRANS

RP LANDSCAPE & IRRIGATION

P. Scott Graham
CEO/General Manager

Roy Perez
Owner

Date

Date

DP____

Federal Tax I.D. No. 33-0953297

CM____

ATTACHMENT A – SCOPE OF WORK
MNT17-39
LANDSCAPING SERVICES

I. INTRODUCTION AND PROJECT OVERVIEW

A. INTRODUCTION

Contractor shall provide complete Landscaping Services for Omnitrans East Valley, West Valley, “T” Street, “J” Street, sbX Corridor, San Bernardino Transit Center Bus side, and The San Bernardino Downtown Metrolink Station properties.

B. BACKGROUND

Omnitrans transit operations are conducted from five (5) separate facilities in the County of San Bernardino, and along the sbX corridor. Locations where landscaping services are to be performed are as follows:

- 1) East Valley Facility (City of San Bernardino)
 - a) Located at 1700 West Fifth Street, San Bernardino, CA92411
 - b) 12.7 acre Administrative Offices and Maintenance Facility
- 2) West Valley Facility (City of Montclair)
 - a) Located at 4748 Arrow Highway, Montclair, CA 91763
 - b) 5.5 acre Operations and Maintenance Facility
- 3) “T” Street Properties East Valley Paratransit Facility (City of San Bernardino)
 - a) Located at 234 South “T” Street, San Bernardino, CA 92410
 - b) 4.7 acre Operations and Vehicle Maintenance complex
- 4) “J” Street lot (City of San Bernardino)
 - a) This property is adjacent to the East Valley paratransit facility located at 234 South “T” Street, San Bernardino, CA 92410
 - b) 2.2 acre empty dirt lot completely fenced with gate access
- 5) San Bernardino Transit Center (City of San Bernardino)
 - a) Located at 599 West Rialto Ave, San Bernardino, CA 92410
 - b) 4.5 acre bus facility
 - c) Additional landscaping shall be phased in 2017
 - d) Optional: 3.6 acre 3.6 acre San Bernardino Downtown Metrolink Station (Metrolink facility)
- 6) sbX Corridor (City of San Bernardino)
 - a) The 15.7-mile corridor spans between northern San Bernardino and Loma Linda. It includes 16 art-inspired stations

at key university, government, business, entertainment and medical centers as well as four park-and-ride facilities.

- b) Responsibility is to maintain the landscape and irrigation at the stations and park & rides areas only. In total there are 4 park and rides with stations (Palm/Kendall, Marshall West, Marshall East, and Anderson/Redlands); 2 single side running stations (CSUSB and Benton/Barton); 6 pair of side running stations (Kendall/Little Mountain, Kendall/Shandin Hills, E - Street/Highland, E Street/Baseline, Anderson/Redlands, and Anderson/Prospect); and 6 single center running stations (E Street/Court, E Street/Rialto, E Street/North Mall, Hospitality/Hunts, Hospitality/Carnegie, and Hospitality/Tippecanoe). (See drawings attached for actual locations).

II. SCOPE OF SPECIFICATIONS

A. Landscaping Services

- 1) General. These specifications describe once weekly landscaping maintenance for Omnitrans' East Valley, West Valley, San Bernardino Transit Center and "I" Street Properties. The lot at "J" Street shall be cleared at least quarterly, but may require clearing more often if Omnitrans is notified by the City or County of San Bernardino with a "Notice and Order to Abate."
- 2) Verification of Dimensions. Contractors shall conduct a careful examination of the premises and shall thoroughly familiarize themselves with the requirements of the contract and scope of the work to be done. By the act of submitting a bid for the work included in this solicitation, the Successful Contractor shall be deemed to have made such a study and examination, and that it is familiar with and accepts all conditions of the respective sites.

III. STATEMENT OF WORK

Contractor's work shall include the following tasks and shall be completed on or before the timeframes agreed upon between Project Manager and Contractor.

A. GENERAL

- 1) A thorough inspection shall be made of all turf, planters, landscape and surrounding areas at least once per week to keep them free from weeds, paper, trash and/or other debris. All turf, trees, shrubs and planting shall be inspected weekly for evidence of disease and infestation of rodents, insects or other pests. Contractor shall provide immediate treatment to prevent further damage. To maintain a neat and orderly appearance, each service call by the

contractor, shall include sweeping, vacuuming or hosing of all entryways and walkways as necessary.

- 2) Contract must furnish all labor, equipment, materials, tools, services and special skills required to perform the landscape maintenance as set forth in these specifications. Maintenance of plant material shall include, but not be limited to mowing, trimming, pruning, watering, fertilization, weed control, cultivation, pest control and cleanup. Irrigation maintenance shall include operation of systems, adjustments and minor repairs. The walkways shall be cleaned to prevent impairment of walking surface from plant materials.

B. LICENSE

A class C-27 State Contractors license is required (a copy must be included with the bid submission).

C. COORDINATION

Prior to commencing work, the Contractor shall check-in with the Facility Manager, or his designee, responsible for the Operations site where work is to be performed. All work shall be accomplished in such a manner as to minimize interference with Omnitrans' operations.

D. QUARTERLY INSPECTIONS

Quarterly inspections shall be performed between Contractor and Omnitrans Facility Manager or designee to ensure that all aspects of contract are being adhered to. Contractor shall make any corrections noted during inspections that fall within the scope of work.

IV. PLANT MATERIAL

A. Turf

1) Mowing

- a) Turf shall be mowed and clippings removed on a weekly basis.
- b) Cut cool season turf at least two and one-half inches (2-1/2") during warm season and reduce to two inches (2") during cool seasons.
- c) Cut warm season turf at one and one-half inches (1-1/2").
- d) Turf shall be cut at a uniform height.
- e) Turf shall be cut with sharp blades.
- f) Mowing patterns shall be changed weekly to avoid rutting of turf areas.
- g) Care shall be exercised during the mowing operation to prevent damage to trees and other obstacles in the lawn areas such as electrical boxes, fixtures, buildings and signage.

h) No mowing shall be performed in wet conditions.

2) Edging

- a) All turf edges adjacent to walks, curbs, paved areas, fixtures at grade and shrub or ground cover areas, shall be trimmed with a power edger as needed to maintain a crisp and neat appearance.
- b) A six inch (6") bare drift buffer zone shall be maintained around the circumference of all trees, buildings and raised fixtures in the turf.
- c) Care shall be exercised with regard to the use of string trimmers to prevent damage to building surfaces, walls, headerboard, light fixtures, signage, etc.
- d) String trimmers shall not be used to edge around trees.

3) Fertilization

Fertilize turf as required to maintain a lush, green appearance and perpetual growth. A minimum of four (4) times per year using seven pounds of 16-6-8 per 1,000 square feet will be required. All material and labor required for fertilizing services shall be included in the monthly fees.

4) Watering

- a) Operate irrigation system to obtain uniform moisture throughout root zone.
- b) Use a soil probe or moisture sensor to determine moisture needs.
- c) Use repeat cycles to maximize penetration and minimize runoff.
- d) To minimize soil compaction, allow soil in turf areas sufficient time to dry prior to mowing.

5) Weed, Pest and Disease Control

Contractor shall maintain weed, pest and disease free turf areas at all times by either chemical or mechanical means.

B. Ground Cover

1) Edging and Trimming

- a) Adjacent walls, curbs, paved areas, building, shrubs, trees and other miscellaneous objects in ground cover areas shall be edged as needed to maintain a neat, clean and well defined edge.
- b) A four to six inch (4"-6") bare dirt clearance shall be maintained around the circumference of all trees, shrubs, signs, etc., in ground cover and adjacent building structures.

2) Ground Cover Fertilization

Fertilize a minimum of four (4) times per year using ten (10) pounds of 16-6-8 per 1,000 square feet, or an approved equal program, to maintain an appearance of continual growth. All materials and labor required shall be included in the monthly fees.

3) Watering

Contractor shall schedule water application to produce a deep rooted ground cover, i.e.,: short periods with repeat cycles.

4) Weed, Pest and Disease Control

- a) Contractor shall maintain a weed, pest and disease free ground cover.
- b) Cultivate bare areas a minimum of once per week. Care shall be exercised in cultivation so as not to damage susceptible plant root.

C. Shrubs

1) Pruning

- a) Pruning of shrubs shall be performed to attain maximum desired effect while retaining as much of the natural characteristics or branching as possible.
- b) Shrubs shall be pruned as required for safety, removal of broken or diseased branches, general containment or appearance.
- c) Natural shape - The intent is to emphasize the natural form of the shrub. Initially "pinch prune" to keep compact and develop structure. Ultimately, annually remove 50% of old stems to the ground to rejuvenate. Avoid shearing which will eliminate flowering wood and destroy character.
- d) Natural Hedge - The intent is to develop a loose, informal appearing hedge which requires only minimal attention to keep in shape and size. Initially "pinch prune" to keep compact. Allow top to fill in solid horizontally. This is critical to avoid "legginess."
- e) Formal Hedge - It is the intent of these shrubs to have straight, crisp edges. Initial "pinch pruning" with shears will encourage the shrub to fill in.
- f) Pruning at the correct time of year is essential to maximize flowering potential.
- g) After flowering, remove any spent blossoms on flower stalks.
- h) Shrubs around the East Valley Administration building shall be kept pruned to no higher than the building windowsills and not touching the building walls.
- i) All hedges in the parking lot center median(s) shall be kept pruned to no higher than 3 feet from the finished surface.

- j) All other hedges and shrubs shall be kept pruned to no higher than 3 feet above the ground.
- k) Hedges within 15 feet of all entry/exit vehicular and pedestrian points shall be kept pruned to no higher than 2 feet.
- l) Trees shall be pruned to avoid conflict with vehicular or pedestrian traffic and shall not be allowed to interfere with site lighting or security cameras.
- m) Trees, shrubs, and ground cover must be kept off fire hydrants, signs, fences, sitting areas, walkways and driveways.
- n) Foliage growing on block walls, chain link fences, etc., shall be kept trimmed to eliminate hiding areas near block walls, chain link fences, etc., and keep barbed wire/razor wire exposed.”

2) Fertilization of Shrubs

- a) Fertilize all shrubs a minimum of four (4) times per year with one-fourth (1/4) pound of 16-6-8 applied to shrub base and watered in or an approved equal program. All material and labor required shall be included in the monthly fees.
- b) Due to area soil conditions, supplemental feedings of iron may be required to prevent chlorosis.
- c) Contractor shall be responsible for applying all material required to correct mineral deficiencies affecting plant growth.

3) Weed, Pest and Disease Control

- a) Contractor shall maintain weed, pest and disease free shrub beds at all times.
- b) All shrub areas that are not planted with ground cover will be raked and cultivated regularly.

D. Vines

1) Pruning

- a) Vines and espalier shall be checked and retied as required.
- b) Vines shall be pruned and maintained so as not to obstruct fixtures, signs, windows, etc.

2) Fertilization

Fertilize all vines with one-fourth (1/4) pound of 10-10-5 a minimum of two (2) times per year. All material and labor required shall be included in the monthly fees.

- 3) Watering
Watering as necessary to provide optimum growth.

E. Trees

- 1) Trees shall be pruned as required to remove broken, diseased branches or for general containment. It shall be Contractor's prime responsibility, related to pruning, to conduct a pruning program, which must be approved by Omnitrans' Facility Manager. This program should develop proper tree scaffolding, strength and appearance consistent with intended use.
- 2) All trees at all sites shall be pruned as necessary to promote good patterns and to avoid conflict with vehicular or pedestrian traffic and shall not be allowed to interfere with site lighting or security cameras. Pruning activities are considered to be an ongoing event throughout the contract period as opposed to a one-time event.
- 3) Tree stakes, ties and guys shall be checked and straightened as needed. Ties will be adjusted to prevent girding. Remove unneeded stakes, ties and guys as directed.
- 4) Apply all chemical controls such as insecticides as required to control or prevent pests.
- 5) Fertilize all trees as needed. May require deep root feeding or foliage application.
- 6) Surface roots which become maintenance or appearance problems will be removed as required to prevent damage to adjacent paved areas.
- 7) No climbing or the use of gaffs will be allowed. Pruning shall be accomplished with pole saws or by the use of mechanical lifts.
- 8) See Tree Trimming Specifications Section XI.

V. IRRIGATION SYSTEMS – CONTROLLERS

- A. Contractor shall adjust the watering schedule equal to the percolation rate each area is capable of receiving based on topography, soil type, plant material, season or climatic factors.
- B. Contractor shall utilize repeat cycle on controller to eliminate excessive run-off.
- C. Hours of scheduled operation will be programmed to minimize disease occurrence of plant material.

- D. Schedule operation to reduce possible nuisance from sprinkler operation to pedestrians or vehicles.
- E. Operation of System - All systems shall be personally observed during operation cycle at least once a month to verify effectiveness of sprinkler operations.
 - 1) Contractor shall adjust and clean as necessary all sprinkler heads, drip irrigation systems, valves and pressure reducers to continue operation at maximum efficiency and performance.
 - 2) Sprinkler heads in turf areas shall be kept clear of over-growth which may obstruct maximum operation. No chemical spraying or weed eating around head will be allowed.
- F. All labor and material for the repair or replacement of worn or damaged sprinkler heads, drip irrigation emitters or damaged risers shall be included in the monthly fee.
- G. Main lines, valves, controllers and timers shall be replaced or repaired and parts and labor will be an extra charge in accordance with the provisions under "ExtraWork".

VI. CLEAN-UP

- A. Contractor shall remove and dispose of all debris resulting from the Contractors operations. All grass clippings deposited on roadways or walks shall be picked up after each mowing or trimming operation.
- B. All debris resulting from any of Contractor's operations shall be removed and disposed of in a legal disposal site at the contractor's expense. No debris will be allowed to remain at Omnitrans' facilities at the end of the work day. No Omnitrans' containers, dumpsters or refuse receptacles will be used to dispose of landscaping debris.
- C. All walkways shall be cleaned of debris and trash shall be removed from hardscape and landscape area when on site.
- D. All landscape areas shall be patrolled whenever on site to check for vandalism, broken tree branches, rodents, snails, insects, pests, disease, etc. Any problem shall be reported to the Omnitrans' Facility Manager.

VII. WEED CONTROL OF PAVED SURFACES

Contractor will be responsible for removing weeds in all hardscape areas.

VIII. WEEDS, VEGETATIVE GROWTH AND DEBRIS CLEARING OF "J" STREET LOT

- A. Contractor is to furnish all supervision. Labor, materials, equipment and tools such as, but not limited to tractors, disc, trucks, mowers, shovels, hoes, rakes, trash cans, containers and/or tarps, gas powered weed eaters, chain saws and other

tools and equipment as required for the removal of weeds, debris and vegetative growth from the empty lot.

- 1) All internal combustion equipment must be equipped with an approved spark arrester and sufficient noise control devices.

IX. EXTRA WORK

- A. Omnitrans may authorize extra work by written notice or order. Omnitrans may from time to time order work suspension or make changes to this Agreement. Changes in the Work shall be mutually agreed to and incorporated into an amendment to the final Agreement. Upon execution of an amendment, CONTRACTOR shall perform the Work, as amended.
- B. Contractor shall promptly notify Omnitrans hereof and assert its claim for adjustment within thirty (30) days after the change is ordered, and an equitable adjustment shall be negotiated.
- C. Extra work will be cost itemized on a separate monthly billing.
- D. Extra work may include, but not be limited to, the following:
 - 1) Replacement of plant material due to failure beyond Contractor's control.
 - 2) Any additional treatment required for planting, i. e: soil amendments, irrigation, etc., not specified in the contract.
 - 3) Laboratory for soil or plant testing (if required).
 - 4) Controlling all rodents in landscaped areas.
 - 5) Overseeding of warm season grasses.
 - 6) Irrigation System Repair (excluding sprinkler heads and risers).

X. PESTICIDES

- A. General

All material shall be in strict accordance with the Food and Agriculture Code.
- B. Application of Pesticides
 - 1) Pesticides shall be applied at times which limit the possibility of contamination from climatic and other factors. Applicator shall monitor forecasted weather conditions to avoid making applications prior to inclement weather to eliminate potential runoff of treated areas. When water is required to increase pesticide efficiency, it shall be applied only in quantities that each area is capable of receiving without excessive runoff.
 - 2) Care shall be taken in transferring and mixing pesticides to prevent contaminating areas outside the target area. Application methods shall be used which insure materials are confined to target areas. Disposal of pesticides shall be within the guideline established in the California Food and Agricultural Code.

- 3) All labor for the application of herbicides for grass control on slopes shall be included in the monthly fees.

C. Hazardous Materials

- 1) Contractor shall perform all work in a clean, safe and professional manner, causing no hazards to Omnitrans' staff, facility, the environment or contractors service personnel.
- 2) All hazardous waste must be handled, collected, stored and disposed of in accordance with federal, state and local environmental compliance regulations.
- 3) Coordination of hazardous waste collection, storage and disposal shall be made through Omnitrans' Facilities Supervisor, or his or her designee.
- 4) All chemicals used must have MSDS (material safety data sheets)/ SDS (safety data sheets) provided to the Facilities Supervisor, at Omnitrans, for prior approval.

XI. TREE TRIMMING SPECIFICATIONS

The Contractor shall provide tree trimming services to include all labor, equipment, tools and materials required to perform the work in accordance with the specifications/ drawings herein. This applies to all locations.

XII. GENERAL

- A. All work shall be performed in accordance with all applicable Federal, State and County rules and regulations. The Contractor shall obtain all necessary permits (If applicable) to perform the work.
- B. No vehicles will be allowed on non-lawn planting areas. Only vehicles to access the trees for trimming purposes and dump trucks and chipper's shall be allowed to drive on lawn areas and walkways. Contractor shall inspect the areas prior to driving on the lawns to determine line locations of sprinkler systems and any other above and/or below grade utilities. Contractor shall exercise care to avoid these utilities. Contractor shall not drive on wet or muddy lawns where it is likely to cause ruts in the lawns.
- C. Vehicles shall not be driven over above grade tree roots and no closer than 10 feet from the base of the tree trunk. No other equipment or vehicles of any type, including pickup trucks shall be allowed on lawns and walkways.
- D. Contractor shall provide safety signs and other barricades and devices necessary for the safety and convenience of the general public/employees. Contractor shall at all times conduct his work to assure the least possible obstruction of public traffic without obstructing the free flow of traffic and public lights

- E. Any damage to buildings, structures, vehicles, plants and other items in the area and adjoining properties shall be repaired and/or replaced by the Contractor at his own expense and to the satisfaction of Omnitrans and the injured party(s).
- F. Omnitrans' Facility Manager or designee will routinely inspect the Contractor's work during any phase of the operations. These inspections shall be made to assess progress of work and determine acceptability of the Contractor's work.
- G. Adverse conditions which may require major field changes not stated in this scope of work must be reported to the Facility Manager prior to commencement or continuation of work.

XIII. WORK SCHEDULE

- A. Contractor shall notify Omnitrans 48 hours prior to starting work.
- B. Work shall be performed during daylight hours on any day of the week.

XIV. TREE TRIMMING TERMINOLOGY

- A. Branch Collar: The bark tissue formed between the branch and the main trunk or between any branches or limbs.
- B. Compartmentalization: Process where tree bark closes over cut ends to create wound closure.
- C. Crown: The part of the tree, made of branches and leaves, from the lowest branches to the top of the tree.
- D. Crown cleaning: Removing dying, decayed, diseased, weak, poorly attached, and dead branches from the crown.
- E. Crown containment: Removing branches growing outside from and not part of the exterior surface of the crown,
- F. Crown raising: Removing the lowest branches of the crown. Also called raising the ceiling of the tree.
- G. Crown thinning: Removing branches to increase light penetration, air movement, and reduce weight of the crown.
- H. Dead and diseased wood: Dead or dying branches or woody tissue. Branches are dying where recovery will not occur and / or branches will never thrive.
- I. Lion's tail: Conditions where limb or branch is bare of foliage except at the tips. The limb resembles the tail of a lion. Condition results from trimming operations, or tree's response to stub cuffing limb.
- J. Stump grind: Mechanical grinding of the stump and any above and below grade roots to render the tree unable to grow.
- K. Stub cutting: Trimming operation where branches are cut too far from the branch collar to allow for compartmentalization of the cut end. Stub cut branches typically have no foliage.
- L. Suckers: Vigorous, usually vertical, shoots growing from tree root area.

- M. Topping or heading: Trimming operation where crown height or spread is reduced by removing trunk, limbs, or branches without regard for compartmentalization of the cut end. This would be similar to stub cutting.
- N. Water sprouts: Vigorous, usually vertical, shoots growing from above grade portions of the tree.

XV. GENERAL TREE TRIMMING REQUIREMENTS

Contractor shall trim all trees following these General Tree Trimming Requirements:

- A. Contractor shall use best horticultural practices to perform all tree trimming operations. Contractor shall be aware of and shall comply with City ordinances governing tree trimming work and traffic control regulations during work. All trimming shall be performed in accordance with ANSI Z133, OSHA, the International Society of Arboriculture, and National Arborist Association's Pruning Standards.
- B. Contractor shall determine if trees to be trimmed exhibit conditions hazardous to vehicles, buildings, walls, paving, irrigation systems, planting, and other site amenities and the general public; and detrimental to the well-being of the tree. If such conditions exist, the Contractor shall immediately notify the Facility Manager.
- C. The use of climbing spurs and spikes shall not be allowed for climbing palms and trees.
- D. All pruning cuts shall be performed with pruning shears, lopping shears, hand, pole and chain saws only. Cane knives and machetes are not allowed.
- E. Proper pruning cuts shall be performed to prevent bark tears and to promote compartmentalization of cut ends.
- F. Stub cutting is not allowed. Cuts shall be made close to the branch collar.
- G. Lions tailing is not allowed. After trimming adequate foliage shall remain to provide proper growth and vigor of the tree limbs.
- H. Topping or heading is not allowed.
- I. Ropes and cables shall be employed to lower limbs and branches which have the potential to cause damage below if dropped without restraint.
- J. Contractor shall completely remove all trimmings and any other debris resulting from the work on a daily basis. All refuse shall be disposed of off-site at locations meeting all Federal, State and County ordinances and regulations. As possible, the Contractor shall dispose of refuse at recycling facilities.

XVI. TREE TRIMMING WORK REQUIREMENTS

- A. All dead, dying wood and stub cuts shall be removed from the tree.
- B. Water sprouts in the crown shall be selectively removed to minimize flush of water sprouts after trimming.

- C. Clearing trees from trees or other objects shall be horizontal clearance.
- D. Clearing trees above trees or other objects shall be vertical clearance.
- E. Clearing all around trees or other objects shall be horizontal and vertical clearance.
- F. Clearing from wires shall be performed by Tree Trimmer qualified and certified to do the work.
- G. Raising the ceiling height, crown raising, shall be done to height above finish grade, unless indicated otherwise
- H. Trees to be removed shall be stump ground. After grinding, hole shall be backfilled with grindings and soil, so at final settlement top is level with surrounding finish grade.

XVII. SPECIFICATIONS FOR SAFETY

- A. This section covers general safety during the entire project.
- B. Contractor must perform the following tasks as required to their full intent.
- C. If there are inconsistencies between this document and the Scope of Work the Scope of Work shall govern.

XVIII. REGULATORY REQUIREMENTS

- A. Comply with all governing regulations and regulatory agencies including, but not limited to all applicable Federal, State, County, and Local requirements, pollution and environmental protection requirements, utility company requirements and recommendations, and underwriters recommendations that pertain to the Project.
- B. Comply with the requirements of the authority that has jurisdiction; the strictest requirement will govern.
- C. Provide everything necessary for conformance with those requirements.

XIX. GENERAL SAFETY REQUIREMENTS

- A. Protect the premises, workers, the public, Omnitrans' employees, Omnitrans' equipment, and Contractor's employees from work hazards.
- B. Adhere to fitness for duty requirements, appropriate working attire, and working area cleanliness.
- C. Enforce safety and security of the work site.
- D. Protect all open excavation areas with caution tape, security fence, and/or barricades.
- E. Plan and perform all work in a manner that will provide hazard-free work areas for Omnitrans personnel.
- F. Provide and post signs, place barricades and similar safe guards to direct traffic away from the site of work.
- G. Remove barricades when area is capable of receiving traffic.

- H. Ensure that anything electrical is properly grounded and that all precautions are taken to prevent any chance of electrical shock or spark.
- I. Provide fire protection for contractor's material, facilities, and equipment. No fire protection equipment or personnel shall be provided by Omnitrans.
- J. Adhere to all safety requirements as required by regulatory agencies and industry safety standards, whichever is the stricter.
- K. Contractor's personnel shall display Contractor identification at all times while on Omnitrans property. Contractor's personnel shall show identification when asked by Omnitrans employees or security personnel.

XX. DRAWINGS

By this reference, the following drawings are incorporated herein:

Exhibit A – East Valley Trees

Exhibit B – West Valley Trees

Exhibit C – I-Street Trees

Exhibit D – J-Lot Weed Control Responsibility

Exhibit E – SBTC Bus Side Tod Pad Landscape

Exhibit E1- SBTC Bus Side Landscape

Exhibit E2 – SBTC Metrolink Side Landscape

Exhibit F – sbX Anderson & Redlands Boulevard Park & Ride Station Landscape

Exhibit F1 – sbX Court & E-Street Center Station Landscape

Exhibit F2 – sbX Hospitality at Tippecanoe Center Station Landscape

Exhibit F3 – sbX Hospitality by Harriman Center Station Landscape

Exhibit F4 – sbX Hunts Lane & Hospitality Center Station Landscape

Exhibit F5 – sbX Kendall & Palm Park & Ride Station Landscape

Exhibit F6 – sbX Marshall & E-Street Park & Ride Station Landscape

Exhibit F7 – sbX North-South Mall & E-Street Center Station Landscape

Exhibit F8 – sbX Rialto & E-Street Center Station Landscape

Exhibit F9 – sbX Stations Landscape Notes L002

Exhibit F10 – sbX Planting Legends L003

Exhibit F11 – sbX Stations Planting Legends L004

Exhibit F12 – sbX Stations Planting Legends L005

Exhibit F13 – sbX Stations Planting Legends L006

**BOARD OF DIRECTORS MEETING
DECEMBER 7, 2016**

ITEM No. F7

**CONTRACT No. MNT17-39
LANDSCAPING SERVICES**

EXHIBITS AVAILABLE UPON REQUEST

ATTACHMENT C - PRICING

MNT17-39

LANDSCAPING SERVICES

Item Number	Section	Description	Unit of Measure	Quantity	Monthly Price	Annual Price
1	Base Year 1 (January 12, 2017 - January 11, 2018)	East Valley Facility	Monthly	12	\$1,200.00	\$14,400.00
2	Base Year 1 (January 12, 2017 - January 11, 2018)	West Valley Facility	Monthly	12	\$400.00	\$4,800.00
3	Base Year 1 (January 12, 2017 - January 11, 2018)	I Street Facility	Monthly	12	\$90.00	\$1,080.00
4	Base Year 1 (January 12, 2017 - January 11, 2018)	J Street Lot	Monthly	12	\$70.00	\$840.00
5	Base Year 1 (January 12, 2017 - January 11, 2018)	San Bernardino Transit Center	Monthly	12	\$400.00	\$4,800.00
6	Base Year 1 (January 12, 2017 - January 11, 2018)	Tree Trimming	Monthly	12	\$750.00	\$9,000.00
7	Base Year 1 (January 12, 2017 - January 11, 2018)	sbX Corridor	Monthly	12	\$1,650.00	\$19,800.00
8	Base Year 1 (January 12, 2017 - January 11, 2018)	Optional: San Bernardino Downtown Metrolink Station	Monthly	12	\$400.00	\$4,800.00
					Subtotal	\$59,520.00
9	Base Year 2 (January 12, 2018 - January 11, 2019)	East Valley Facility	Monthly	12	\$1,340.00	\$16,080.00
10	Base Year 2 (January 12, 2018 - January 11, 2019)	West Valley Facility	Monthly	12	\$420.00	\$5,040.00
11	Base Year 2 (January 12, 2018 - January 11, 2019)	I Street Facility	Monthly	12	\$100.00	\$1,200.00
12	Base Year 2 (January 12, 2018 - January 11, 2019)	J Street Lot	Monthly	12	\$80.00	\$960.00
13	Base Year 2 (January 12, 2018 - January 11, 2019)	San Bernardino Transit Center	Monthly	12	\$420.00	\$5,040.00
14	Base Year 2 (January 12, 2018 - January 11, 2019)	Tree Trimming	Monthly	12	\$800.00	\$9,600.00
15	Base Year 2 (January 12, 2018 - January 11, 2019)	sbX Corridor	Monthly	12	\$1,810.00	\$21,720.00
16	Base Year 2 (January 12, 2018 - January 11, 2019)	Optional: San Bernardino Downtown Metrolink Station	Monthly	12	\$420.00	\$5,040.00
					Subtotal	\$64,680.00
17	Base Year 3 (January 12, 2019 - January 11, 2020)	East Valley Facility	Monthly	12	\$1,480.00	\$17,760.00
18	Base Year 3 (January 12, 2019 - January 11, 2020)	West Valley Facility	Monthly	12	\$440.00	\$5,280.00
19	Base Year 3 (January 12, 2019 - January 11, 2020)	I Street Facility	Monthly	12	\$120.00	\$1,440.00
20	Base Year 3 (January 12, 2019 - January 11, 2020)	J Street Lot	Monthly	12	\$90.00	\$1,080.00
21	Base Year 3 (January 12, 2019 - January 11, 2020)	San Bernardino Transit Center	Monthly	12	\$440.00	\$5,280.00
22	Base Year 3 (January 12, 2019 - January 11, 2020)	Tree Trimming	Monthly	12	\$800.00	\$9,600.00
23	Base Year 3 (January 12, 2019 - January 11, 2020)	sbX Corridor	Monthly	12	\$1,970.00	\$23,640.00
24	Base Year 3 (January 12, 2019 - January 11, 2020)	Optional: San Bernardino Downtown Metrolink Station	Monthly	12	\$440.00	\$5,280.00
					Subtotal	\$69,360.00
25	Option Year 1 (January 12, 2020 - January 11, 2021)	East Valley Facility	Monthly	12	\$1,620.00	\$19,440.00
26	Option Year 1 (January 12, 2020 - January 11, 2021)	West Valley Facility	Monthly	12	\$460.00	\$5,520.00
27	Option Year 1 (January 12, 2020 - January 11, 2021)	I Street Facility	Monthly	12	\$140.00	\$1,680.00
28	Option Year 1 (January 12, 2020 - January 11, 2021)	J Street Lot	Monthly	12	\$100.00	\$1,200.00
29	Option Year 1 (January 12, 2020 - January 11, 2021)	San Bernardino Transit Center	Monthly	12	\$400.00	\$4,800.00
30	Option Year 1 (January 12, 2020 - January 11, 2021)	Tree Trimming	Monthly	12	\$850.00	\$10,200.00
31	Option Year 1 (January 12, 2020 - January 11, 2021)	sbX Corridor	Monthly	12	\$2,130.00	\$25,560.00
32	Option Year 1 (January 12, 2020 - January 11, 2021)	Optional: San Bernardino Downtown Metrolink Station	Monthly	12	\$460.00	\$5,520.00

ATTACHMENT C - PRICING
MNT17-39
LANDSCAPING SERVICES

					Subtotal	\$73,920.00
33	Option Year 2 (January 12, 2021 - January 11, 2022)	East Valley Facility	Monthly	12	\$1,200.00	\$14,400.00
34	Option Year 2 (January 12, 2021 - January 11, 2022)	West Valley Facility	Monthly	12	\$400.00	\$4,800.00
35	Option Year 2 (January 12, 2021 - January 11, 2022)	I Street Facility	Monthly	12	\$90.00	\$1,080.00
36	Option Year 2 (January 12, 2021 - January 11, 2022)	J Street Lot	Monthly	12	\$70.00	\$840.00
37	Option Year 2 (January 12, 2021 - January 11, 2022)	San Bernardino Transit Center	Monthly	12	\$400.00	\$4,800.00
38	Option Year 2 (January 12, 2021 - January 11, 2022)	Tree Trimming	Monthly	12	\$900.00	\$10,800.00
39	Option Year 2 (January 12, 2021 - January 11, 2022)	sbX Corridor	Monthly	12	\$2,081.00	\$24,972.00
40	Option Year 2 (January 12, 2021 - January 11, 2022)	Optional: San Bernardino Downtown Metrolink Station	Monthly	12	\$400.00	\$4,800.00
					Subtotal	\$66,492.00
41	Hourly Rates for Extra Services	Supervisor (Fully Burdened Rate)	HOURLY	1	\$35.00	\$35.00
42	Hourly Rates for Extra Services	Foreman (Fully Burdened Rate)	HOURLY	1	\$32.00	\$32.00
43	Hourly Rates for Extra Services	Lead-Man (Fully Burdened)	HOURLY	1	\$30.00	\$30.00
44	Hourly Rates for Extra Services	Labor (Fully Burdened Rate)	HOURLY	1	\$28.00	\$28.00

ITEM # G1

DATE: December 7, 2016

TO: Board Chair Sam Spagnolo and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Jennifer M. Sims, Director of Procurement

**SUBJECT: PUBLIC HEARING – TO DETERMINE THE RESPONSIBILITY OF
PATTEN ENERGY ENTERPRISES, INC.**

FORM MOTION

1. Open and conduct a Public Hearing on Wednesday, December 7, 2016, at 8:00 a.m., to determine the responsibility of Patten Energy Enterprises, Inc., with regard to IFB-MNT16-109R1 and place into record any public comments and evidence received.
2. Close the Public Hearing and make a finding as to whether Patten Energy Enterprises, Inc. is a responsible bidder.

BACKGROUND

On April 6, 2016, Omnitrans Board of Directors authorized release of Invitation for Bids IFB-MNT16-109. Notices were published in two local newspapers of general circulation and posted on Omnitrans' online bidding system.

Omnitrans stated in the Instructions to Bidders, Section V, AWARD/EVALUATION PROCESS, for the above referenced invitation for bids that:

“Any contract awarded as a result of this solicitation will be awarded to the lowest (overall cost), responsive and responsible bidder in accordance with the solicitation. In addition to meeting technical requirements, Omnitrans will consider debarment, suspension, & other responsibility matters (references, www.sam.gov, contract terminations for convenience, contract terminations for cause, etc.) in determining responsibility.”

Eight (8) bids were received by the August 9, 2016 deadline; all eight bids were deemed responsive. Staff conducted a responsibility review and deemed seven bidders to be responsible. Staff determined that Patten Energy Enterprises, Inc. (Patten) is not a responsible bidder. A summary of the relevant information reflecting adversely upon Patten's responsibility is as follows:

- 1) STATUS OF PAST AND PRESENT CONTRACTS FORM – Bidder listed two (2) past and present contracts in which the contract has been terminated for convenience or cause or is the subject of or may be involved in litigation with the awarding agency. One of which was Omnitrans contract MNT15-93, Coolant Supply Services, which Omnitrans terminated for cause. Bidder's explanation of the circumstances was:

"Patten energy disputed this ruling because the delivered batch of coolant which was five (5) points off spec was within market. The standard of 10 points below or above stated specification."

- 2) No Dispute: On June 10, 2015, Omnitrans issued Patten a 30-day Notice to Cure for performance under Contract MNT15-93. In accordance with Attachment A, Scope of Work, Page 3.IV., Inspection and Rejection, Omnitrans submitted samples of coolant provided by Patten to Ana Laboratories, Inc. on May 19, 2015. Test results received on June 2, 2015 indicate that levels of ethylene glycol and tin (SN) were not in compliance with the required specifications for the coolant in Contract MNT15-93.

Contrary to the statement Patten made on their STATUS OF PAST AND PRESENT CONTRACTS FORM, Patten did not dispute the independent laboratory evidence. In Patten's response to the Notice to Cure, dated June 10, 2016, Patten stated that, "*Our supplier did us wrong, we were deceived and it will not happen again.*"

- 3) Patten's proposed cure was to use a new supplier, replace the off specification coolant, provide copies of specifications for coolant delivered, and provide test results of field refractometer tests for each future delivery.
- 4) Quality - Only one of the next four delivery attempts met specification. As a result, Omnitrans terminated the agreement in accordance with Article 10. Termination for Breach of Agreement for failure to cure and in accordance with Article 9. Termination for Convenience.
- 5) Contract MTN15-93 contained specifications for the coolant in Attachment A and there was no provision that allowed for coolant to be off specification to a certain degree. Therefore, to the extent that Patten is now raising the argument for the first time that the provision of off specification coolant was allowable under Contract MTN15-93, Omnitrans rejects this interpretation of the contract.
- 6) On November 16, 2016, the Los Angeles County District Attorney filed seventeen (17) felony charges against Patten Energy Enterprises, Inc., owner Ezekiel Patten Jr., and driver Devell Rozelles Hicklen. Charges include grand theft, counterfeit of a trademark, and grand theft for issuing insufficient funds checks. Omnitrans is listed as a victim along with ten other public agencies and corporations. Arraignment is scheduled for December 29, 2016.

Based on the information presented above and the evidence attached to this staff report, staff recommends that the contract for IFB-MNT16-109R1 Misc. Bulk Oils and Lubricants not be

awarded to Patten due to a lack of responsibility. Bidders must successfully demonstrate attributes of trustworthiness, as well as quality, fitness, and experience to satisfactorily perform the contract. Based on the evidence described above, Omnitrans staff recommends that the Omnitrans Board of Directors determine that Patten Energy Enterprises has not successfully demonstrated these attributes.

The Board's determination shall constitute a final decision for purposes of judicial appeal, but it shall not preclude Omnitrans or any other agency from initiating any other legal proceeding against Patten for actions related to proceedings. The attachments to this item include the documentary evidence supporting the summary above.

Attachments

PSG:JMS

November 9, 2016

Ezekiel Patten Jr., CEO/President
Patten Energy Enterprises, Inc.
3437 South Main Street
Los Angeles, CA 90007

Subject: IFB-MNT16-109R1 Misc. Bulk Oils and Lubricants, Determination of Responsibility

Mr. Patten:

OmniTrans stated in the Instructions to Bidders, Section V, AWARD/EVALUATION PROCESS, for the above referenced invitation for bids that:

“Any contract awarded as a result of this solicitation will be awarded to the lowest (overall cost), responsive and responsible bidder in accordance with the solicitation. In addition to meeting technical requirements, OmniTrans will consider debarment, suspension, & other responsibility matters (references, www.sam.gov, contract terminations for convenience, contract terminations for cause, etc.) in determining responsibility.”

The bid submitted by Patten Energy Enterprises, Inc. (Patten) has been reviewed and determined to be the lowest responsive bid. However, staff has also determined that Patten is not a responsible bidder. A summary of the relevant information reflecting adversely upon Patten’s responsibility is as follows:

- 1) **STATUS OF PAST AND PRESENT CONTRACTS FORM** – Bidder listed two (2) past and present contracts in which the contract has been terminated for convenience or cause or is the subject of or may be involved in litigation with the awarding agency. One of which was OmniTrans contract MNT15-93, Coolant Supply Services, which OmniTrans terminated for cause. Bidder’s explanation of the circumstances was:

“Patten energy disputed this ruling because the delivered batch of coolant which was five (5) points off spec was within market. The standard of 10 points below or above stated specification.”

- 2) No Dispute: On June 10, 2015, OmniTrans issued Patten a 30-day Notice to Cure for performance under Contract MNT15-93. In accordance with Attachment A, Scope of Work, Page 3.IV., Inspection and Rejection, OmniTrans submitted samples of coolant provided by your firm to Ana Laboratories, Inc. on May 19, 2015. Test results received on June 2, 2015 indicate that levels of ethylene glycol and tin (SN) were not in compliance with the required specifications for the coolant in Contract MNT15-93.

Contrary to the statement Patten made on their STATUS OF PAST AND PRESENT CONTRACTS FORM, Patten did not dispute the independent laboratory evidence. In Patten's response to the Notice to Cure, dated June 10, 2016, Patten stated that, "*Our supplier did us wrong, we were deceived and it will not happen again.*"

- 3) Patten's proposed cure was to use a new supplier, replace the off specification coolant, provide copies of specifications for coolant delivered, and provide test results of field refractometer tests for each future delivery.
- 4) Quality - Only one of the next four delivery attempts met specification. As a result, Omnitrans terminated the agreement in accordance with Article 10. Termination for Breach of Agreement for failure to cure and in accordance with Article 9. Termination for Convenience.
- 5) Contract MTN15-93 contained specifications for the coolant in Attachment A and there was no provision that allowed for coolant to be off specification to a certain degree. Therefore, to the extent that Patten is now raising the argument for the first time that the provision of off specification coolant was allowable under Contract MTN15-93, Omnitrans rejects this interpretation of the contract.

The attachments to this letter provide the documentary evidence supporting the summary above.

Based on the above, Omnitrans staff will be recommending to the Board that the contract for IFB-MNT16-109R1 Misc. Bulk Oils and Lubricants not be awarded to Patten due to a lack of responsibility. Bidders must successfully demonstrate attributes of trustworthiness, as well as quality, fitness, and experience to satisfactorily perform the contract. Based on the evidence described above, Omnitrans staff has determined that Patten Energy Enterprises has not successfully demonstrated these attributes.


The Omnitrans Board of Directors will be considering the award of Contract IFB-MNT16-109R1 Misc. Bulk Oils and Lubricants at 8:00 am on December 7, 2016 at:

Omnitrans Metro Facility Board Room
1700 W. Fifth St
San Bernardino, CA 92411

If you desire to dispute this finding of nonresponsibility, you may request that the award of Contract IFB-MTN16-109R1 be a public hearing item where you may present evidence to rebut staff's determination of nonresponsibility prior to the Board's decision to award the contract. Patten has until 5:00 pm on November 22, 2016 to request in writing that a public hearing be held at the December 7, 2016 Board meeting.

If a public hearing is requested, Patten Energy Enterprises may present both written evidence (20 copies of each) and oral testimony at the hearing. The Board's determination shall constitute a final decision for purposes of judicial appeal but it shall not preclude Omnitrans or any other agency from initiating any other legal proceeding against Patten for actions related to proceedings.

Sincerely,


Jennifer M. Sims, C.P.M.
Director of Procurement

Attachments:

1. Relevant portions of Contract MTN15-93
2. Independent Test Results from Ana Laboratories, Inc., May 22, 2015
3. Notice to Cure, June 10, 2015
4. Patten's Response to Notice to Cure, June 10, 2015
5. Omnitrans Refractometer Test Results: June 12, 16, 18, 2015
6. Termination Letter, July 16 2015
7. Patten's Status of Past and Present Contracts Form (submitted through Omnitrans' Online bidding system at 2:32 pm on 9/19/16)

ATTACHMENT A – SCOPE OF WORK
RFQ-MNT15-93
COOLANT SUPPLY SERVICES

I. PURPOSE:

Omnitrans is seeking a qualified Contractor to supply coolant on an as-needed basis, no guarantee of usage, in bulk, with periodic deliveries in 55-gallon drums, and the pick-up and recycling of waste coolant from Omnitrans' facilities.

II. SPECIFICATIONS:

This specification covers Omnitrans' requirements for recycled prediluted ethylene glycol engine coolant. Recycled prediluted ethylene glycol engine coolant, when installed in accordance with the vehicle manufacturer's recommendation and those on the product label, shall be suitable for use in a properly maintained cooling system (heavy duty transit vehicle type engines) for a minimum of one year without adversely affecting fluid flow and heat transfer, and shall prevent liner pitting.

1. Requirements:

- i. Ethylene glycol based engine coolant shall consist of ethylene glycol containing less than 7.5% other glycols, appropriate proportions of suitable corrosion/erosion inhibitor, scale suppressant and foam suppressant.
- ii. Recycled ethylene glycol based engine coolant must meet manufacturer's specifications as stated in Exhibits 1 and 2.
- iii. Omnitrans requires a mixture of 50% ethylene glycol and 50% deionized or distilled water red in color.
- iv. The recycled prediluted engine coolant, when delivered, shall require no precharge of additional supplemental coolant additives and as is, shall provide protection against freezing, boiling, corrosion/erosion/pitting of aluminum, copper, brass, solder, and ferrous metals in the cooling system components; at a minimum, meet engine manufacturer's ASTM minimal standard for product specifications that will maintain engine manufacturer's warranties.
- v. Historical data indicates that Omnitrans' 24-month consumption of recycled prediluted engine coolant is estimated at approximately 15,881 gallons. These quantities are provided for informational purposes only and shall not obligate Omnitrans to purchasing such quantities.
- vi. Coolant is considered hazardous, only qualified Contractors or their fully licensed, permitted, and insured subcontractors are to transport coolant and meet federal, state and local requirements..

ATTACHMENT A – SCOPE OF WORK
RFQ-MNT15-93
COOLANT SUPPLY SERVICES

- vii. The Contractor shall be required to furnish proof of license, permits and certificate of insurance no later than seven working days after contract award.
- viii. Coolant delivery quantity shall be based on each location's requirements. See locations listed in Section III. Delivery, below.
- ix. Recycled prediluted ethylene glycol based engine coolant is intended for direct addition to an engine cooling system with no further on-site dilution. Coolant shall conform to physical and chemical properties and shall meet or exceed all performance standards for the current ASTM D 6210 specifications with the exception of the 33% concentration.
- x. The recycled prediluted fully formulated engine coolant as delivered shall meet or exceed all performance standards for the current ASTM D6210 specifications.
- xi. Recycled prediluted engine coolant shall prevent formation of scale or sludge deposits in cooling systems and storage tanks.

III. DELIVERY:

- 1. Deliveries by Contractor shall be made in bulk to the following locations with storage capacity of:
 - i. 1700 West Fifth Street, San Bernardino, CA 92411
 - a. Shop:
Lube Cube AST "New/ Recycled Coolant" = 1,000 gallons (Above ground storage tank and can be filled to 90%)
Plastic Storage Tank "Used Coolant" = 105 gallons
 - b. Fuel Island:
Lube Cube AST "New/ Recycled Coolant" = 1,000 gallons (This is an above ground storage tank and can be filled to 90%. This tank is scheduled to be in place/service in 2015.)
 - ii. 4748 Arrow Hwy, Montclair, CA 91763
 - a. Shop:
"New/ Recycled Coolant" = 1,000 gallons (Underground storage tank and may be filled to 90%)
 - b. Fuel Island:
"Used Coolant" = 500 gallons (Underground storage tank may be filled to 90%). "Used Coolant" may be processed and sold as recycled coolant.
- 2. The Contractor may also be required to deliver 55-gallon drums when the tanks are not available in such circumstances as the tanks are being serviced or under repair.

ATTACHMENT A – SCOPE OF WORK
RFQ-MNT15-93
COOLANT SUPPLY SERVICES

The Contractor shall ensure that individual 55-gallon drums are clearly labeled indicating content of the drums. Drums shall clearly state the coolant is pre-diluted and does not require the addition of water.

IV. INSPECTION AND REJECTION:

1. Omnitrans reserves the right to take samples of coolant from incoming shipments at random and check for compliance to this specification. However, the Contractor shall accept full responsibility for all shipments meeting this specification without dependence upon the Omnitrans' inspection.
2. In the event the coolant supplied failed to meet this specification, the Contractor shall, at the sole election of the Omnitrans, be required to remove and replace the coolant at his/her own expense. Repeated delivery of noncompliant coolant will be grounds for contract termination.
3. An inspection of the refining facility used to supply the coolant may be conducted at the sole discretion of Omnitrans' staff. The inspection shall be to determine a Contractor's capacity and capability to process and supply coolant meeting the specification requirements.

V. CONTRACTOR RESPONSIBILITY:

1. Upon request and prior to contract award, the successful Contractor shall submit a 16-ounce sample of the proposed product for Omnitrans' analysis and approval.
2. The successful Contractor shall submit with the bid, certification that the product meets the chemical, physical and performance requirements as outlined in the current ASTM D6210 specifications with the exception of the 33% concentration.
3. All coolant supplied by the Contractor shall be equal in every respect to the sample approved by Omnitrans.
4. The Contractor shall submit with the bid, certification that no engine warranties shall be voided by use of the awarded coolants.

VI. OMNITRANS RESPONSIBILITY:

1. Omnitrans will be responsible for maintaining the existing coolant storage tanks.
2. Omnitrans will test coolant inventory monthly via an outside laboratory.

VII. SPECIFICATIONS FOR WASTE COOLANT RECYCLING SERVICES:

The following represents the Omnitrans specification for the pick-up, transporting, and proper recycling of waste coolant from Omnitrans' facilities.

1. Requirements:
 - i. Waste coolant is considered hazardous waste. Only qualified Contractors or their fully licensed, permitted, and insured sub-contractors may

ATTACHMENT A – SCOPE OF WORK
RFQ-MNT15-93
COOLANT SUPPLY SERVICES

- transport waste coolant. The successful Contractor shall provide proof of licenses, recycling facility permits, recycling facility locations, recycling methods and certificate of insurance.
- ii. Pick-up of waste coolant shall be performed at the Omnitrans facilities listed in Section VII. Specifications for Waste Coolant Recycling. The service schedule and quantity of waste coolant shall be based on each facility's requirement and coordinated with the Omnitrans' Project Manager.
 - iii. Contractor's trucks shall be equipped with the appropriate equipment for the removal of waste. Trucks used in the transport of such waste coolant will comply with all Federal and State laws and regulations regarding the transportation of Hazardous Waste, and will have all current and required permits, licensing and registration.
 - iv. Contractor shall pick-up the waste coolant from Omnitrans facilities in accordance with all federal, state and local regulations.
 - v. Contractor shall provide to Omnitrans a State of California Environmental Protection Agency Uniform Hazardous Waste Manifest for every waste coolant pick-up to ensure the hazardous waste generator (Omnitrans) is in full compliance with all regulations.
 - vi. Contractor shall provide to Omnitrans a written certificate stating that the waste coolant shall be sent to a facility that the facility is fully permitted and authorized to operate within the state and local regulatory district for which it is located.
 - vii. Pick-up of waste coolant shall be performed Monday through Friday during the hours of 7:00 a.m. and 4:00 p.m., or as requested by the Omnitrans Project Manager.
 - viii. Pick up of waste coolant shall be scheduled with a four business-day lead time by the Omnitrans' Project Manager. Unscheduled pick-ups shall be performed within 48-hours of notification.
 - ix. UNDER NO CIRCUMSTANCE SHALL THE CONTRACTOR SIGN A MANIFEST ON OMNITRANS' BEHALF AND LIST ITSELF AS GENERATOR.
 - x. Contractor trucks shall be equipped with necessary material to clean up a waste coolant release. Truck operators shall be properly trained on hazardous material handling and response procedures
 - xi. Once the pick-up of waste coolant has been completed, the Contactor shall obtain the Generator Certification signature from an Omnitrans representative and provide such representative with Generator's copy of

ATTACHMENT A – SCOPE OF WORK
RFQ-MNT15-93
COOLANT SUPPLY SERVICES

the signed Uniform Hazardous Waste Manifest prior to leaving Omnitrans facility.

2. Storage Tanks:
 - i. Omnitrans shall provide for the storage of waste coolant in 125-gallon vessels.
 - ii. Omnitrans shall be responsible for maintaining storage vessels.
3. Omnitrans Addresses for Waste Coolant Pick-up
 - i. Contractor shall pick-up waste coolant from the following Omnitrans facilities:
 - a. 1700 West Fifth Street, San Bernardino, CA 92411
 - b. 4748 Arrow Hwy, Montclair, CA 91763

VIII. WARRANTY:

1. All products supplied are warranted to be free from defects and related defects for a minimum of one (1) year under normal use and when properly installed. The Contractor shall provide exchange replacements AT NO COST to Omnitrans for products failing within one (1) year term. Any supplier or manufacturer's standard limited warranty coverage greater than that specified above must also be extended to Omnitrans.
2. In addition to meeting ASTM D6210 Specification for Fully Formulated Glycol Base Engine Coolant for Heavy Duty Engines, product shall meet or exceed Cummins, Detroit Diesel, and John Deere engine manufacturer's specifications for coolant.
3. Manufacturer's standard warranty shall commence the date the part is placed in service, not the delivery date, unless product has a previously specified shelf life. Contractor shall state warranty offered on bid form or attach warranty offered. All items purchased under this Contract shall be guaranteed for a minimum of one (1) year against any defects by the transmission part manufacturer with full credit given. Consequential damages shall be included in warranty.
4. In the event of an engine failure a sample shall be pulled to ascertain if the coolant was within compliance of ASTM D6210 Specification for Fully Formulated Glycol Base Engine Coolant for Heavy Duty Engines, Contractor shall describe the required process for a warranty claim for a possible coolant failure, causing engine components to prematurely fail.
5. Contractor shall attach an explanation of the Warranty Claim procedure for exchange, replacement, and/or reimbursement of repair costs. Warranty claims will be submitted by Omnitrans within twenty-one working days of failure.

ATTACHMENT A – SCOPE OF WORK
RFQ-MNT15-93
COOLANT SUPPLY SERVICES

Adjustments, credits, or refunds shall be completed by the Contractor within thirty (30) days of notification of the transmission part failure. Refunds shall be made by check or account credit, payable to Omnitrans, 1700 W. Fifth Street, San Bernardino, CA 92411-2401.

6. In the event that warranty adjustments for a part failure cannot be resolved by mutual agreement between the successful Contractor and Omnitrans' Warranty Coordinator, a meeting will be set up with the Contractor, Omnitrans' Maintenance Manager, Contract Administrator, Warranty Coordinator, and Director of Maintenance to resolve the warranty issue.

End of Attachment A – Scope of Work

ANA LABORATORIES, INC.

ANA LABORATORIES, Inc.
 9922 E. Montgomery
 Unit 10
 Spokane Valley, WA 99206
 (509) 468-1512 (800) 965-3835
 Fax: (509) 468-1533

OMNITRANS
Attn: Danny Woods
4748 Arrow Hwy
Montclair, Ca 91763

Antifreeze test:

Test Date: May 22, 2015
Unit Number: Ev Fuel Island
Date of Sample: May 19, 2015
Miles On Unit:

Spectro Chemical Metals:

<i>FE</i>	<i>CR</i>	<i>PB</i>	<i>AG</i>	<i>CU</i>	<i>SN</i>	<i>AL</i>	<i>MN</i>
2	0	0	0	2	126	10	0
<i>NI</i>	<i>TI</i>	<i>MO</i>	<i>V</i>	<i>SI</i>	<i>B</i>	<i>NA</i>	<i>MG</i>
0	0	1166	0	58	62	2272	51
<i>CA</i>	<i>BA</i>	<i>P</i>	<i>ZN</i>				
44	0	1166	16				

Freeze Point °F: + 17.0

Glycol %: 22

Reserve Alkalinity: 1.4

Nitrites: 560 PPM

Comments: Test results as reported. Note : High Tin (SN) in coolant.

Bellmawr, New Jersey * Pittsburgh, Pennsylvania * Spokane, Washington

ANA LABORATORIES, INC.



ANA LABORATORIES, Inc.
9922 E. Montgomery
Unit 10
Spokane Valley, WA 99206
(509) 468-1512 (800) 965-3835
Fax: (509) 468-1533

OMNITRANS
Attn: Danny Woods
4748 Arrow Hwy
Montclair, Ca 91763

Antifreeze test:

Test Date: May 22, 2015
Unit Number: Ev Shop
Date of Sample: May 19, 2015
Miles On Unit:

Spectro Chemical Metals:

<i>FE</i>	<i>CR</i>	<i>PB</i>	<i>AG</i>	<i>CU</i>	<i>SN</i>	<i>AL</i>	<i>MN</i>
1	0	0	0	1	151	11	0
<i>NI</i>	<i>TI</i>	<i>MO</i>	<i>V</i>	<i>SI</i>	<i>B</i>	<i>NA</i>	<i>MG</i>
0	0	943	0	174	27	594	95
<i>CA</i>	<i>BA</i>	<i>P</i>	<i>ZN</i>				
86	0	471	19				

Freeze Point °F: + 20.0

Glycol %: 20

Reserve Alkalinity: 1.9

Nitrites: 560 PPM

Comments: Test results as reported. Note : High Tin (SN) in coolant.

Bellmawr, New Jersey * Pittsburgh, Pennsylvania * Spokane, Washington



1700 W. Fifth St.
San Bernardino, CA 92411
909-379-7100
www.omnitrans.org

June 10, 2015

Patten Energy Enterprises, Inc.
Ezekiel Patten Jr.
CEO/ President
3437 South Main Street
Los Angeles, CA 90007

Subject: Contract MNT15-93, Coolant Supply Services

Dear Mr. Patten Jr.,

This letter shall serve as a 30-calendar day Notice to Cure for performance under Contract MNT15-93 Coolant Supply Services. Listed below are the specific performance deficiencies requiring immediate action from your firm. At the end of the 30-calendar days, Omnitrans will reassess your firm's performance.

Patten Energy is not meeting the specification requirements identified in Contract MNT15-93 and Attachments.

Patten Energy Enterprises, Inc. Contract MNT15-93 included the following performance standards:

Attachment A, Scope of Work, page 1, II. Specifications, 1. Requirements iii. **Omnitrans requires a mixture of 50% ethylene glycol and 50% deionized or distilled water red in color.**

In accordance with Attachment A, Scope of Work, page 3. IV. Inspection and Rejection, Omnitrans submitted samples of coolant provided by your firm to Ana Laboratories, Inc. on May 19, 2015.

Issue: Deficient. Test results received on June 2, 2015 indicate that levels of ethylene glycol and tin (SN) are not in compliance with the required specifications.

Patten Energy Enterprises, Inc. must comply with the technical specifications as required in Attachment A, Scope of Work.

Please note that paragraph 2 of the above referenced section of the agreement requires the contractor at the sole election of the Omnitrans, be required to remove and replace the coolant at his/her own expense. Omnitrans hereby elects to have Patten Energy Enterprises, Inc. remove and replace the coolant at the Omnitrans' East Valley and West Valley locations by the close of

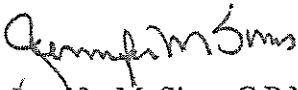
business, Thursday, June 11, 2015. Arrangements must be made in advance with Oscar Tostado, who can be reached by phone at (909) 379-7483 or by email at Oscar.tostado@omnitrans.org. Moving forward, Patten Energy Enterprises, Inc. must coordinate all deliveries with Mr. Tostado to accommodate sample tests.

In responding to this cure notice you are required to advise the Director of Procurement of what actions Patten Energy Enterprises, Inc. will take to remedy performance as identified above. How will Patten Energy Enterprises, Inc. bring the coolant into compliance with the technical specifications? All of the proposed remedies/actions must be accomplished within the cure notice period established. **Repeated delivery of noncompliant coolant will be grounds for contract termination.** Failure to correct specification requirements may result in the termination of the contract as disclosed in the Contract Agreement:

10. Termination for Breach of Agreement, page 8 of Contract Agreement.

It must be clearly understood that the burden of correcting specification requirements rests with Patten Energy. It is also your responsibility to correct your performance so as to ensure successful accomplishment of the contract terms and conditions within the time afforded you in this notice.

Sincerely,


Jennifer M. Sims, C.P.M.
Director of Procurement

Attachments

cc. Jack Dooley, Director of Maintenance
Contract File



June 10, 2015

Ms. Jennifer M. Sims, C.P.M.
Director of Procurement
OmniTrans
1700 W. Fifth St.
San Bernardino, CA 92411

Subject: Contract MNT15-93 Coolant Supply Services:

Patten Energy Enterprises, Inc. cure is to provide replacement coolant for the East Valley location on Friday, June 12, 2015 before the close of business. We were notified that only the East Valley location coolant was off specification by way of the two submitted lab reports. We will replace that coolant on Friday, June 12, 2015.

Additionally, we will do the following...

1. Give you a copy of the specifications for the coolant delivered.
2. We will perform a field test using a refractometer to test the glycol and we will show you the results of our test before filling your tanks.
3. We will provide perform this field test at each future delivery.

Our supplier did us wrong, we were deceived and it will not happen again. Our new supplier will make sure that our product is always within the contract specification. We will also, test the coolant before taking delivery.

Also, we have a technical advisor that will be available for any questions or concerns that you or your staff may have. He is a coolant expert.

Yours Sincerely,

Ezekiel Patten, Jr.
President



OMNITRANS REFRACTOMETER TEST RESULTS

Delivery Date	Test Results	Pass/Fail (50% Ethylene Glycol/ 50% Distilled Water)
5/22/15	Tank 1: 20% Ethylene Glycol Tank 2: 22% Ethylene Glycol	Fail Fail
6/12/15	Tank 1: <50% Ethylene Glycol Tank 2: <50% Ethylene Glycol (Tested directly from tank instead of pulling samples)	Fail Fail
6/16/15	Tank 1: 50% Ethylene Glycol Tank 2: 50% Ethylene Glycol	Pass Pass
6/18/15	Tank 1: 39 – 40% Ethylene Glycol Tank 2: 43% Ethylene Glycol	Fail Fail

NOTE: Refractometer was calibrated on June 5, 2015 using samples pulled from the 5/22/15 delivery.



1700 W. Fifth St.
San Bernardino, CA 92411
909-379-7100
www.omnitrans.org

July 16, 2015

Patten Energy Enterprises, Inc.
Ezekiel Patten Jr.
CEO/ President
3437 South Main Street
Los Angeles, CA 90007

Subject: Contract MNT15-93, Coolant Supply Services

Dear Mr. Patten,

Omnitrans is in receipt of Patten Energy Enterprises, Inc. (Patten) cure notice dated June 10, 2015. Patten's response to the cure notice states:

1. Remove off specification coolant with coolant meeting specification on Friday, June 12, 2015
2. Provide a copy of the specifications for the coolant delivered
3. Perform a field test using a refractometer to test the ethylene glycol levels and show Omnitrans the results prior to filling Omnitrans' coolant tanks
4. Perform field test at each future delivery

Patten asserted that the original supplier had provided off specification coolant. Patten would use a new supplier meeting the specifications of Contract MNT15-93 and provide supporting technical data specification sheets.

On June 12, 2015, Patten attempted to deliver coolant to Omnitrans' East Valley location. Patten's driver, Devell, stated that he only had 500 gallons of coolant and wanted to split the load between the shop and the fuel island. Omnitrans performed a refractometer to test the coolant's ethylene glycol levels the test resulted in a less than the 50% rating required by specification. Both coolant tanks on Patten's delivery truck were tested and both were deemed below specifications. Omnitrans refused the entire delivery. Patten was unable to remove any of the existing off specification coolant from Omnitrans' tanks.

On Monday, June 15, 2015 a communication was sent via e-mail to Mr. Patten confirming the following information:

1. A new delivery of 500 gallons of coolant meeting the specifications of Contract MNT15-93 was scheduled for Tuesday, June 16, 2015 at 11:00 a.m. at Omnitrans' East Valley location.
2. Remove approximately 1,800 gallons of coolant from the two tanks located at Omnitrans' East Valley location.
3. Point of contact for delivery: Oscar Tostado, Maintenance Manager, 909-379-7483.

Patten's delivery truck arrived on June 16, 2015 at approximately 10:40 a.m. Coolant was tested and deemed acceptable. Approximately 748 gallons of off specification coolant was removed from the fuel island location and 506 gallons of acceptable coolant (minimum 50/50 mix) was replaced. Patten was required to top off the fuel island coolant tank with approximately 350 gallons on their next delivery. Patten was required to remove the remaining off specification coolant from the shop tank.

On June 17, 2015, Oscar Tostado contacted Patten at 9:25 a.m. to schedule the next delivery. Patten arrived on Thursday, June 18, 2015 at approximately 2:45 p.m. and delivery truck's two tanks were tested for specification compliance. Tank 1 tested at 39 – 40% ethylene glycol and Tank 2 tested at 43%. The required specification for coolant is 50% or better. Delivery of the two tanks was denied, Patten was allowed to remove 720 gallons of off specification coolant from the shop coolant tank.

Only one of the four delivery attempts has met specification. Mr. Patten was notified by phone that no other delivery attempt should be made without notification from the Omnitrans' Procurement Department. Omnitrans is electing to terminate said agreement effective immediately in accordance with Article 10. Termination for Breach of Agreement for failure to cure and in accordance with Article 9. Termination for Convenience.

10. TERMINATION FOR BREACH OF AGREEMENT

1. If CONTRACTOR fails to perform any of the provisions of this Agreement or so fails to make progress as to endanger timely performance of this Agreement, OMNITRANS may give CONTRACTOR written notice of such default. If CONTRACTOR does not cure such default or provide a plan to cure such default which is acceptable to OMNITRANS within the time permitted by OMNITRANS, then OMNITRANS may terminate this Agreement due to CONTRACTOR's breach of this Agreement.
2. If a federal or state proceeding for relief of debtors is undertaken by or against CONTRACTOR, or if CONTRACTOR makes an assignment for the benefit of creditors, then OMNITRANS may immediately terminate this Agreement.
3. If CONTRACTOR violates Section 26, Compliance with Lobbying Policies, of this Agreement, then OMNITRANS may immediately terminate this Agreement.

4. In the event OMNITRANS terminates this Agreement as provided in this Section, OMNITRANS may procure, upon such terms and in such manner as OMNITRANS may deem appropriate, Work similar in scope and level of effort to those so terminated, and CONTRACTOR shall be liable to OMNITRANS for all of its costs and damages, including, but not limited, any excess costs for such Work.

5. All finished or unfinished documents and materials produced or procured under this Agreement shall become OMNITRANS' property upon date of such termination.

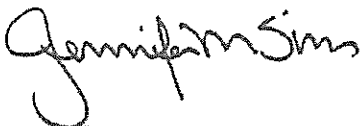
6. If, after notice of termination of this Agreement under the provisions of this Section, it is determined for any reason that CONTRACTOR was not in default under the provisions of this Section, or that the default was excusable under the terms of this Agreement, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Section 8, Termination for Convenience.

7. The rights and remedies of OMNITRANS provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

9. TERMINATION FOR CONVENIENCE

OMNITRANS may terminate this Agreement in whole or in part for OMNITRANS' convenience. Omnitrans' CEO/General Manager shall terminate this Agreement by a written Notice of Termination to CONTRACTOR specifying the nature, extent, and effective date of the termination. Upon receipt of the notice of termination, CONTRACTOR shall immediately discontinue all Work affected and deliver all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Agreement, whether completed or in process, to Omnitrans' CEO/General Manager. OMNITRANS shall make an equitable adjustment in the Agreement for Work already performed, but shall not allow anticipated profit on unperformed services. Force Majeure shall apply.

Regards,



Jennifer M. Sims
Director of Procurement



STATUS OF PAST AND PRESENT CONTRACTS FORM (REQUIRED)

Submit this form with the BID, failure to do so is grounds for disqualification.

On the form provided below, Bidder shall list the status of past and present contracts where the firm has either provided services as a prime vendor or a subcontractor during the past five (5) years in which the contract has been terminated for convenience or cause or is the subject of or may be involved in litigation with the agency.

Additional forms may be submitted to cover all terminated contracts or contracts where option years were exercised.

Project city/agency/other: METRO
 Contact Name: Stephanie Wiggins, Deputy CEO Phone: (213) 922-1023
 Project Award Date: 1/29/2015 Original Contract Value: \$997,633.00
 Term of Contract: One Year and One Year Option (\$1,028,692)

Completely explain the circumstances of any contract terminated and/or option years not exercised

Contract was terminated improperly and was rescinded and termination was withdrawn without prejudice.
All issues were fully resolved by METRO. Option was not excised due to market price conditions.

Project city/agency/other: Omintrans
 Contact Name: Jennifer Sims Phone: (909) 379-7100
 Project Award Date: 1/07/2015 Original Contract Value: \$22,780.00
 Term of Contract: 1 Year

Completely explain the circumstances of any contract terminated and/or option years not exercised

Patten energy disputed this ruling because the delivered batch of coolant which was five (5) points off spec was within market. The standard of 10 points below or above stated specification.

Project city/agency/other: N/A
 Contact Name: N/A Phone: N/A
 Project Award Date: N/A Original Contract Value: N/A
 Term of Contract: _____



Completely explain the circumstances of any contract terminated and/or option years not exercised

N/A

N/A

N/A

Ezekiel Patten, Jr.

A handwritten signature in blue ink, appearing to read "E. Patten", written over a horizontal line.

Name

President

Title

7/18/16

Date

ITEM # F8

DATE: December 7, 2016

TO: Board Chair Sam Spagnolo and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Jennifer M. Sims, Director of Procurement

**SUBJECT: AUTHORIZE AWARD – CONTRACT MNT16-109 - BENCH
MISCELLANEOUS BULK OILS AND LUBRICANTS**

FORM MOTION

1. Authorize the CEO/General Manager to award Contracts MNT16-109 (A-E) as listed below for provision of Miscellaneous Bulk Oils and Lubricants. Contract duration shall be for a three (3) year base period beginning December 7, 2016 and ending December 6, 2019 in the aggregate amount of \$393,557, and the authority to exercise two (2) single year options tied to the Consumer Price Index (CPI) in an aggregate amount not to exceed \$290,948, extending the contracts to no later than December 6, 2021, for a total not-to-exceed amount of \$684,505, should all option years be exercised;

List of contracts for authorization:

Contract No.	Contractor
MNT16-109A	Patten Energy Enterprises, Los Angeles, CA
MNT16-109B	Rosemead Oil Products, Inc., Santa Fe Springs, CA
MNT16-109C	Dion & Sons, Inc., Long Beach, CA
MNT16-109D	Safety-Kleen Systems, Inc., Richardson, TX
MNT16-109E	Merit Oil Company, Bloomington, CA

Or

2. Authorize the CEO/General Manager to award Contract MNT16-109 (B-E) as listed below for the provision of Miscellaneous Bulk Oils and Lubricants. Contract duration shall be for a three (3) year base period beginning December 7, 2016 and ending December 6, 2019 in the aggregate amount of \$449,116, and the authority to exercise two (2) single year options tied to the Consumer Price Index (CPI) in an aggregate amount not to exceed \$349,543, extending the contracts to no later than December 6, 2021, for a total not-to-exceed amount of \$798,660, should all option years be exercised.

List of contracts for authorization:

Contract No.	Contractor
MNT16-109B	Rosemead Oil Products, Inc., Santa Fe Springs, CA
MNT16-109C	Dion & Sons, Inc., Long Beach, CA
MNT16-109D	Safety-Kleen Systems, Inc., Richardson, TX
MNT16-109E	Merit Oil Company, Bloomington, CA

BACKGROUND

On April 6, 2016, Omnitrans Board of Directors authorized release of Invitation for Bids IFB-MNT16-109. Notices were published in two local newspapers of general circulation and posted on Omnitrans' online bidding system. Eight (8) bids were received by the August 9, 2016 deadline; eight bids were deemed responsive and seven deemed responsible. The eighth bidder's responsibility will be determined at the close of the Public Hearing.

Oil companies no longer honor fixed pricing. As a result, the IFB was designed to meet the fluctuating market pricing by having each bidder establish a fixed margin (profit/discount) and delivery charge by product. A copy of an invoice or statement from the bidder's supplier will be used to establish a margin that the bidder cannot exceed for the contract period. A bench of Contractors will be established per product. Pricing shall remain fixed for a six month period. Thereafter, unit price(s) may be adjusted, either up or down, every six months after award, reflecting the change in the Producer Price Index (PPI).

Listed below is the per-gallon price:

Product	*Total Price Per Gallon
Motor Oil	
Patten Energy Enterprises, Inc.	\$5.50
Rosemead Oil Products, Inc.	\$6.40
California Fuels and Lubricants	\$6.94
Automatic Transmission Fluid	
Dion & Sons, Inc.	\$10.69
The SoCo Group, Inc.	\$27.44
Rosemead Oil Products, Inc.	\$27.69
Gear Oil	
Patten Energy Enterprises, Inc.	\$6.12
Rosemead Oil Products, Inc.	\$7.82
Hydraulic Fluid	
Patten Energy Enterprises, Inc.	\$4.12
Safety-Kleen Systems, Inc.	\$4.22
Rosemead Oil Products, Inc.	\$5.85
Grease	
Patten Energy Enterprises, Inc.	\$1.80
Merit Oil Company	\$1.89
Southern Counties Oil Co.	\$1.99

*Pricing is inclusive of fixed margin and delivery charges.

Award is recommended to the lowest, responsive and responsible bidders, pending the outcome of the Public Hearing.

This procurement meets the requirements of Omnitrans' Procurement Policies and Procedures.

FUNDING SOURCE

The cost associated with this procurement is budgeted in the Maintenance Department's Operating budget as follows:

Department Number	1200
Expenditure Codes	504120, 504130

_____ Verification of Funding Sources and Availability of Funds.
(Verified and initialed by Finance)

Short Range Transit Plan/Strategic Initiative Supported – This procurement supports Omnitrans' Short Range Transit Plan goal to expand, maintain and improve existing vehicles, facilities and passenger amenities.

CONCLUSION

By proceeding with this award, Omnitrans will have the ability to perform preventative maintenance as needed on Omnitrans fleet of revenue vehicles.

PSG:JMS:KT

CONTRACT AGREEMENT

between

CONTRACT TEMPLATE: ACTUAL
CONTRACT AVAILABLE UPON
REQUEST.

CONTRACT DOCUMENTS

CONTRACT NO. MNT16-109

MISC BULK OILS AND LUBRICANTS

(hereinafter "CONTRACTOR")

Telephone: 214-918-6851

Email: henry.delevett@kleenperformance.com

And

Contract Amount:

Omnitrans
 1700 West Fifth Street
 San Bernardino, CA 92411
 (hereinafter "OMNITRANS")

) Omnitrans Project Manager:
) Name: Rick Barone
) Title: Materials Manager
) Telephone: (909) 379-7204
) Fax: (909) 379-7107
) Email: rick.barone@omnitrans.org
)
) Contract Administrator:
) Name: Krystal Turner
) Title: Contract Administrator
) Telephone: (909) 379-7202
) Fax: (909) 379-7402
) Email: krystal.turner@omnitrans.org
)
)
)



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This Agreement is made and entered into as of this 7th day of December, 2016 by and between Omnitrans (hereinafter referred to as "OMNITRANS") and Contractor (hereinafter referred to as "CONTRACTOR").

RECITALS

WHEREAS, OMNITRANS is a joint powers authority organized under Sections 6500 et seq. of the California Government Code with power to contract for services described in Attachment A to this Agreement entitled "Attachment A, Scope of Work" (hereinafter referred to as "Work");

WHEREAS, CONTRACTOR has indicated it is qualified to perform such services and (1) has reviewed all the available data furnished by OMNITRANS pertinent to the Work to be rendered; (2) has inspected and reviewed the Work to be rendered; (3) will exercise the ordinary care and skill expected of a practitioner in its profession; and (4) is willing to accept responsibility of performing the Work set forth in this Agreement for the compensation and in accordance with the terms, requirements and conditions herein specified;

NOW, THEREFORE, for the consideration hereinafter stated, the parties agree as follows:

1. SCOPE OF WORK

- A. CONTRACTOR will perform the Work and related tasks as described in Attachment A, Scope of Work hereto and is incorporated by reference into and made a part of this Agreement.
- B. This is a non-exclusive Agreement, whereby OMNITRANS may, at its sole discretion, augment or supplant the Work with its own forces or forces of another contractor or entity. CONTRACTOR will cooperate fully with

OMNITRANS' staff or other contractor or entity that may be providing similar or the same Work for OMNITRANS.

2. PERIOD OF PERFORMANCE

The term of this Agreement shall be from the date of execution of this Agreement and continue in effect through December 6, 2019, unless terminated as specified in Section 10 and 11 of this Agreement. Omnitrans has no obligation to purchase any specified amount of products/services. All applicable indemnification provisions in this Agreement shall remain in effect following the termination of this Agreement.

Omnitrans' election to extend the Agreement beyond the Initial Term shall not diminish its right to terminate the Agreement for Omnitrans' convenience or CONTRACTORS default as provided elsewhere in this Agreement. The "maximum term" of this Agreement shall be the period extended from December 7, 2019 through December 6, 2021, which period encompasses the Initial Term and the Option Years.

3. CONTRACT OPTIONS

- A. Omnitrans will have the unilateral right in the contract by which, for a specified time, Omnitrans may elect to purchase additional services called for by the contract, or may elect to extend the term of the contract. The requirements below apply:
 - 1) Any options that were requested by Omnitrans and/or contained in the Contractor's PROPOSAL or offer must have been evaluated in making the contract award prior to exercising any such options.
 - 2) Since Contractor's proposed pricing for the option years and additional services are considered in evaluating the Contractor's original proposal and form the basis for awarding the contract, Contractor shall be bound by the proposal pricing for additional services and/or option years, unless otherwise provided herein.
- B. Omnitrans will provide a minimum of thirty days (30) written notice to the Contractor of Omnitrans' exercise of its option to extend the contract years. Omnitrans may give notice of its exercise of the option for additional services at any time during the term of the contract. The minimum time for the written notice may be waived by mutual agreement.

4. COMPENSATION

For CONTRACTOR's full and complete performance of its obligations under this Agreement, OMNITRANS shall pay CONTRACTOR on a FIRMED FIXED UNIT PRICE basis at the fully burdened fixed unit rates shown in Attachment B, and subject to the maximum cumulative payment obligation.

OMNITRANS' maximum cumulative payment obligation under this Agreement shall not exceed _____, including all amounts payable to CONTRACTOR for all costs, including but not limited to direct labor, other direct costs, subcontracts, indirect costs including, but not limited to, leases, materials, taxes, insurance, and profit.

5. INVOICING AND PAYMENT

- A. CONTRACTOR shall invoice OMNITRANS on a monthly basis no later than the 15th of each month. CONTRACTOR shall furnish information as may be requested by OMNITRANS to substantiate the validity of an invoice.

CONTRACTOR shall submit invoices in duplicate to:

OMNITRANS
1700 West Fifth Street
San Bernardino, CA 92411
Attn: Accounts Payable
Accountspayable@omnitrans.org

A separate invoice shall be used for each shipment. Each invoice shall include, at minimum, the following information:

- Contract number
- Invoice number
- Description of delivery
- Delivery Date
- Total quantity delivered
- Information as requested by OMNITRANS

- B. OMNITRANS shall remit payment within thirty (30) calendar days of approval of the invoices by OMNITRANS' Project Manager.

In the event OMNITRANS should overpay CONTRACTOR, such overpayment shall not be construed as a waiver of OMNITRANS' right to obtain reimbursement for the overpayment. Upon discovering any overpayment, either on its own or upon notice of OMNITRANS, CONTRACTOR shall immediately reimburse OMNITRANS the entire overpayment or, at its sole discretion, OMNITRANS may deduct such

overpayment amount from monies due to CONTRACTOR under this Agreement or any other Agreement between OMNITRANS and CONTRACTOR.

C. TITLE

- a. Title shall pass to Omnitrans at the time of payment.
- b. The title transferred as above shall in each case be good, and free and clear from any and all security interests, liens, and/or other encumbrances.
- c. The transfer of title as specified above shall not imply Acceptance by Omnitrans, nor relieve the Contractor from the responsibility for strict compliance with the Contract, including warranty as specified in the Article entitled Warranty of Work, and for any loss of or damage to the Work.
- d. The Contractor at its own expense shall promptly execute, acknowledge, and deliver to the Omnitrans proper bills of sale or other written instruments of title in a form as required by Omnitrans; said instruments shall convey to the Omnitrans' title free and clear of debts, claims, liens, mortgages, taxes, and/or encumbrances.
- e. Contractor shall have title to and bear the risk of any loss of or damage to Work purchased hereunder until they are delivered, unloaded, and received by Omnitrans at the FOB Destination specified herein. Contractor's responsibility for loss or damage except for loss or damage resulting from Contractor's negligence, shall cease when title passes to Omnitrans.

6. AUDIT AND INSPECTION OF RECORDS

CONTRACTOR agrees that OMNITRANS or any duly authorized representative shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, time cards, employment records or other records relating to this Agreement. Such material, including all pertinent cost, accounting, financial records, and proprietary data must be kept and maintained by CONTRACTOR for a period of three (3) years after completion of this Agreement unless OMNITRANS' written permission is given to CONTRACTOR to dispose of material prior to this time.

7. NOTIFICATION

All notices hereunder concerning this Agreement and the Work to be performed shall be physically transmitted by courier, overnight, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

To OMNITRANS:

To CONTRACTOR:

Omnitrans
1700 West Fifth Street
San Bernardino, CA 92411
Attn: Krystal Turner
krystal.turner@omnitrans.org

8. OMNITRANS' AND CONTRACTOR'S REPRESENTATIVES

A. OMNITRANS' Project Manager

Contracting Officer: OMNITRANS' CEO/General Manager or his authorized designee who has authority to execute contracts on behalf of OMNITRANS.

Project Manager: Rick Barone, Materials Manager.

- a. Except as expressly specified in this Agreement, the Contracting Officer may exercise any powers, rights and/or privileges that have been lawfully delegated by OMNITRANS. Nothing in this Agreement should be construed to bind OMNITRANS for acts of its officers, employees, and/or agents that exceed the delegation of authority specified herein.
- b. The Contracting Officer has delegated to the Project Manager certain powers and duties in connection with this Agreement. The Project Manager is the authorized representative of the Contracting Officer for matters related to this Agreement. The Project Manager or his/her designee is empowered to:
 1. Have general oversight of the Work and this Agreement, including the power to enforce compliance with this Agreement.
 2. Reserve the right to remove any portion of the Work from CONTRACTOR which have not been performed to OMNITRANS' satisfaction.
 3. Subject to the review and acceptance by OMNITRANS, negotiate with CONTRACTOR all adjustments pertaining to this Agreement for revision.

- c. In addition to the foregoing, the Project Manager shall have those rights and powers expressly set forth in other sections of this Agreement.

B. Contractor's Key Personnel

The following are CONTRACTOR's key personnel and their associated roles in the Work to be provided:

<u>Name</u>	<u>Role</u>
<p>Any propose/substitution or replacement by Contractor of Contractor's key personnel shall ensure that such person possesses the same or better expertise and experience than the key personnel being substituted or replaced. Omnitrans reserves the right to interview such person to ascertain and verify if such proposed substitution or replacement does in deed possess such expertise and experience.</p> <p>OMNITRANS awarded this Agreement to CONTRACTOR based on OMNITRANS' confidence and reliance on the expertise of CONTRACTOR's key personnel described above. CONTRACTOR shall not reassign key personnel or assign other personnel to key personnel roles until CONTRACTOR obtains prior written approval from OMNITRANS.</p>	

9. DISPUTE RESOLUTION

Any disputes between the successful CONTRACTOR and OMNITRANS relating to the implementation or administration of the Contract shall be resolved in accordance with this section.

- A. The parties shall first attempt to resolve the dispute informally in meetings or communications between proposer and OMNITRANS.
- B. If the dispute remains unresolved fifteen (15) days after it first arises, proposer may request that Omnitrans' CEO/General Manager issue a recommended decision on the matter in dispute. Omnitrans' CEO/General Manager shall issue the recommended decision in writing and provide a copy to proposer.
- C. If the dispute remains unresolved after review by Omnitrans' CEO/General Manager, either party may seek judicial resolution of the dispute in an appropriate Court of the State of California.

- D. Pending final resolution of a dispute under this section, proposer shall proceed diligently with performance in accordance with the Contract and Omnitrans' CEO/General Manager's recommended decision.

10. TERMINATION FOR CONVENIENCE

OMNITRANS may terminate this Agreement in whole or in part for OMNITRANS' convenience. Omnitrans' CEO/General Manager shall terminate this Agreement by a written Notice of Termination to CONTRACTOR specifying the nature, extent, and effective date of the termination. Upon receipt of the notice of termination, CONTRACTOR shall immediately discontinue all Work affected and deliver all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Agreement, whether completed or in process, to Omnitrans' CEO/General Manager. OMNITRANS shall make an equitable adjustment in the Agreement for Work already performed, but shall not allow anticipated profit on unperformed services. Force Majeure shall apply.

11. TERMINATION FOR BREACH OF AGREEMENT

- A. If CONTRACTOR fails to perform any of the provisions of this Agreement or so fails to make progress as to endanger timely performance of this Agreement, OMNITRANS may give CONTRACTOR written notice of such default. If CONTRACTOR does not cure such default or provide a plan to cure such default which is acceptable to OMNITRANS within the time permitted by OMNITRANS, then OMNITRANS may terminate this Agreement due to CONTRACTOR's breach of this Agreement.
- B. If a federal or state proceeding for relief of debtors is undertaken by or against CONTRACTOR, or if CONTRACTOR makes an assignment for the benefit of creditors, then OMNITRANS may immediately terminate this Agreement.
- C. If CONTRACTOR violates Section 28, Compliance with Lobbying Policies, of this Agreement, then OMNITRANS may immediately terminate this Agreement.
- D. In the event OMNITRANS terminates this Agreement as provided in this Section, OMNITRANS may procure, upon such terms and in such manner as OMNITRANS may deem appropriate, Work similar in scope and level of effort to those so terminated, and CONTRACTOR shall be liable to OMNITRANS for all of its costs and damages, including, but not limited, any excess costs for such Work.
- E. All finished or unfinished documents and materials produced or procured under this Agreement shall become OMNITRANS' property upon date of such termination.

- F. If, after notice of termination of this Agreement under the provisions of this Section, it is determined for any reason that CONTRACTOR was not in default under the provisions of this Section, or that the default was excusable under the terms of this Agreement, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Section 10, Termination for Convenience.
- G. The rights and remedies of OMNITRANS provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

12. ASSIGNMENT

This Agreement, any interest herein or claim hereunder, may not be assigned by CONTRACTOR either voluntarily or by operation of law, nor may all or any part of this Agreement be subcontracted by CONTRACTOR, without the prior written consent of OMNITRANS. Consent by OMNITRANS shall not be deemed to relieve CONTRACTOR of its obligations to comply fully with all terms and conditions of this Agreement.

13. SUBCONTRACTING

OMNITRANS hereby consents to CONTRACTOR's subcontracting of portions of the Work to the parties identified below for the functions described in CONTRACTOR's proposal. CONTRACTOR shall include in each subcontract agreement the stipulation that CONTRACTOR, not OMNITRANS, is solely responsible for payment to the subcontractor for all amounts owing and that the subcontractor shall have no claim, and shall take no action against OMNITRANS, Member Agencies or officers, directors, employees or sureties thereof for nonpayment by CONTRACTOR.

Subcontractor's Name and Address

Work to Be Performed

14. INDEPENDENT CONTRACTOR

CONTRACTOR's relationship to OMNITRANS in the performance of this Agreement is that of an independent Contractor. CONTRACTOR's personnel performing Work under this Agreement shall at all times be under CONTRACTOR's exclusive direction and control and shall be employees of CONTRACTOR and not employees of OMNITRANS. CONTRACTOR shall pay all wages, salaries and other amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.

15. INSURANCE

A. INSURANCE REQUIREMENTS

1) General Requirements for Contractor

- a. Without limiting or diminishing the Contractor's obligation to indemnify or hold Omnitrans harmless, Contractor shall procure, prior to commencement of the services required under this contract and maintain for the duration of the contract at its own expense, insurance of the kinds and in the amounts as indicated below;
- b. Provide Omnitrans with valid original certificates of insurance and endorsements showing Omnitrans as an additional insured.

2) Deductibles or Self-Insured Retention (SIR)

SIR must be declared to and approved by Omnitrans. At the option of Omnitrans, either: the insurer shall reduce or eliminate such deductibles or SIR or Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

3) Other Insurance Provisions

a. Commercial General Liability and Automobile Liability

Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed operations liability, personal and advertising injury covering claims which may arise from or out of Contractor's performance of its obligations hereunder and if Contractor's vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then Contractor shall maintain liability insurance for all owned, non-owned or hired vehicles so used. Policy shall name Omnitrans, its officers, officials, employees, agents and volunteers as insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations of the scope of protection afforded Omnitrans, its officers, officials, employees, agents, and volunteers.

1. For any claims related to this project, Contractor's insurance coverage shall be primary insurance as respects Omnitrans, its officers, officials, employees, agents, and volunteers. Any insurance and/or deductibles and/or self-insured retentions or self-insured programs maintained by Omnitrans, its officers, officials, employees, agents, and volunteers shall be excess of

Contractor's insurance and shall not be construed as contributory.

2. Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to Omnitrans.

b. Workers' Compensation

If the Contractor has employees as defined by the State of California, the Contractor shall maintain statutory Workers' compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive subrogation in favor of Omnitrans and, if applicable, to provide a Borrowed Servant/Alternate Employer Endorsement.

c. Care, Custody, and Control

Contractor shall insure any Omnitrans property while under its Care, Custody, and Control according to the requirements listed in the insurance coverage required.

4) Acceptability of Insurers

Insurance companies shall be State of California admitted or approved and have a current **A.M. Best's** rating of no less than **A:VIII**.

5) Verification of Coverage

- a. Contractor shall furnish Omnitrans with original endorsements affecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All insurance certificates and endorsements are to be received and approved by Omnitrans before work commences.
- b. As an alternative, Contractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.
- c. In lieu of purchasing insurance and providing original endorsements and or certificates of insurance, the Contractor may provide proof of self-insurance; such proof must be to the satisfaction of Omnitrans.

6) Subcontractors

Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

7) Notification of Terminated Insurance

Insurance shall not be terminated or expire without thirty (30) days written notice, and are required to be maintained in force until completion of the contract.

B. MINIMUM INSURANCE COVERAGE

- 1) ☒ **Commercial General Liability including Products/Completed Operations:** \$1,000,000; per occurrence for bodily and property damage liability and \$2,000,000 aggregate; *Omnitrans named and endorsed as an Additional Insured.*
- 2) ☒ **Automobile Liability:** \$1,000,000; per occurrence for bodily and property damage liability and aggregate; *Omnitrans named and endorsed as an Additional Insured.*
- 3) ☐ **Errors and Omissions Liability:** \$1,000,000; combined single limit bodily and property damage liability per occurrence and \$3,000,000 aggregate or,
- 4) ☐ **Professional Liability:** \$1,000,000; per occurrence and aggregate.
- 5) ☒ **Workers' Compensation:** statutory limits or,
- 6) ☐ **Self Insurance Program:** a State Approved program in an amount and form that meets all applicable requirements of the Labor Code of the State of California.
- 7) ☒ **Employer's Liability:** \$1,000,000; per occurrence.
- 8) ☐ **Environmental Liability:** \$1,000,000; per occurrence and aggregate; *Omnitrans named and endorsed as an Additional Insured.*
- 9) ☐ **Umbrella Policy:** \$4,000,000; per occurrence and aggregate Additional coverage for the above policies, *Omnitrans Additional Insured.*
- 10) ☐ All drivers making deliveries of products specified on this solicitation shall have Hazardous Materials Endorsements on their Commercial Drivers License, and such other Endorsements as may be required by relevant laws and/or regulations.

16. INDEMNITY

CONTRACTOR shall indemnify, defend and hold harmless OMNITRANS, and its member agencies, and their officers, directors, employees and agents from and against any and all liability, expense (including, but not limited to, defense costs and attorneys' fees), claims, causes of action, and lawsuits for damages of any nature whatsoever, including, but not limited to, bodily injury, death, personal injury or property damage (including property of CONTRACTOR) arising from or connected with any alleged act and/or omission of CONTRACTOR, its officers, directors, employees, agents, Subcontractors or suppliers. This indemnity shall survive termination or expiration of this Agreement and/or final payment thereunder.

17. REVISIONS IN SCOPE OF WORK

By written notice or order, OMNITRANS may, from time to time, order work suspension or make changes to this Agreement. Changes in the Work shall be mutually agreed to and incorporated into an amendment to this Agreement. Upon execution of an amendment, CONTRACTOR shall perform the Work, as amended.

18. RIGHTS IN TECHNICAL DATA

- A. No material or technical data prepared by CONTRACTOR under this Agreement is to be released by CONTRACTOR to any other person or entity except as necessary for the performance of the Work. All press releases or information concerning the Work that might appear in any publication or dissemination, including but not limited to, newspapers, magazines, and electronic media, shall first be authorized in writing by OMNITRANS.
- B. The originals of all letters, documents, reports and other products and data produced under this Agreement shall become the property of OMNITRANS without restriction or limitation on their use and shall be made available upon request to OMNITRANS at any time. Original copies of such shall be delivered to OMNITRANS upon completion of the Work or termination of the Work. CONTRACTOR shall be permitted to retain copies of such items for the furtherance of its technical proficiency; however, publication of this material is subject to the prior written approval of OMNITRANS. The provisions of this paragraph shall survive termination or expiration of this Agreement and/or final payment thereunder.

19. OWNERSHIP OF REPORTS AND DOCUMENTS

The originals of all letters, documents, reports and other products and data produced under this Agreement shall be delivered to, and become the sole and exclusive property of OMNITRANS. Copies may be made for CONTRACTOR's

records, but shall not be furnished to others without prior written authorization from OMNITRANS. Such deliverables shall be deemed works made for hire, and all rights in copyright therein shall be retained by OMNITRANS.

20. OWNERSHIP RIGHTS

- A. In the event OMNITRANS rightfully obtains copies of Proprietary Data under the terms of the separate License Agreement and Escrow Agreement that govern rights in Documentation, Software and Intellectual Property created and/or developed by Contractor, its Third Party Software Contractors and its Suppliers as part of the Project, any derivative works and associated documentation created by or on behalf of OMNITRANS by Permitted Programmers (as defined in the License Agreement) shall be the sole and exclusive property of OMNITRANS (collectively, "OMNITRANS Intellectual Property"), and OMNITRANS may use, disclose and exercise dominion and full rights of ownership, in any manner in OMNITRANS Intellectual Property in connection with the use, operation and maintenance of a transportation system administered by OMNITRANS. No use of OMNITRANS Intellectual Property shall be made for any purpose other than in conjunction with a transportation system administered by CONTRACTOR, and OMNITRANS shall not sell, lease, rent, give away or otherwise disclose any OMNITRANS Intellectual Property to any outside third party other than Permitted Programmers. To the extent there may be any question of rights of ownership or use in any OMNITRANS Intellectual Property, Contractor shall require all of its subcontractors and suppliers (including without limitation its Third Party Software Contractors) to assign to OMNITRANS, all worldwide right, title and interest in and to all OMNITRANS Intellectual Property in a manner consistent with the foregoing terms of this paragraph. Contractor shall execute any documents as OMNITRANS may from time to time reasonably request to effectuate the terms of this paragraph.
- B. All documentation and Software which predates this Contract and which otherwise owned by Contractor or its Third Party Software Contractors, and all Documentation and Software which is created by Contractor or its Third Party Software Contractors shall be Licensed Software or Licensed Documentation, as appropriate. All Licensed Software and Licensed Documentation shall be governed by the License Agreement by and between the parties of event date herewith.

21. WORK FOR HIRE

Any work created or produced as a part of this Agreement that may be defined under Section 101, Title 17, USC will be considered "work for hire" as it pertains to ownership rights. CONTRACTOR, by his/her endorsement hereon agrees that all rights to any work(s) created or produced are waived, and that ownership rests with OMNITRANS. CONTRACTOR further agrees to ensure transfer of all

rights to such work(s), as defined under federal copyright law, that may be created or produced under this Agreement by its suppliers, contractors or subcontractors.

22. SUBMITTAL OF CLAIMS BY CONTRACTOR

CONTRACTOR shall file any and all claims with OMNITRANS' Project Manager in writing within thirty (30) days of the event or occurrence giving rise to the claim. The claim shall be in sufficient detail to enable OMNITRANS to ascertain the claim's basis and amount, and shall describe the date, place and other pertinent circumstances of the event or occurrence giving rise to the claim and the indebtedness, obligation, injury, loss or damages allegedly incurred by CONTRACTOR.

Even though a claim may be filed and/or in review by OMNITRANS, CONTRACTOR shall continue to perform in accordance with this Agreement.

23. EQUAL OPPORTUNITY

CONTRACTOR shall not discriminate against, or grant preferential treatment to, any individual or group, or any employee or applicant for employment because of race, age, religion, color, ethnicity, sex, national origin, ancestry, physical disability, mental disability, political affiliation, sexual orientation, marital status or other status protected by law. CONTRACTOR shall take action to ensure that applicants and employees are treated without regard to the above.

24. STANDARD OF PERFORMANCE

- A. CONTRACTOR shall perform and exercise, and require its subcontractors to perform and exercise due professional care and competence in the performance of the Work in accordance with the requirements of this Agreement. CONTRACTOR shall be responsible for the professional quality, technical accuracy, completeness and coordination of the Work, it being understood that OMNITRANS will be relying upon such professional quality, accuracy, completeness and coordination in utilizing the Work. The foregoing obligations and standards shall constitute the "Standard of Performance" for purposes of this Agreement. The provisions of this paragraph shall survive termination or expiration of this Agreement and/or final payment thereunder.
- B. All workers shall have sufficient skill and experience to perform the Work assigned to them. OMNITRANS shall have the right, at its sole discretion, to require the immediate removal of CONTRACTOR's personnel at any level assigned to the performance of the Work at no additional fee or cost to OMNITRANS, if OMNITRANS considers such removal in its best interests and requests such removal in writing and such request is not done for illegal reasons. Further, an employee who is removed from

performing Work under this Agreement under this Article shall not be re-assigned to perform Work in any other capacity under this Agreement without OMNITRANS' prior written approval.

25. NOTIFICATION OF EMPLOYMENT OF OMNITRANS BOARD MEMBERS/ALTERNATES AND EMPLOYEES

To ensure compliance with OMNITRANS' Ethics Policy, CONTRACTOR shall provide written notice to OMNITRANS disclosing the identity of any individual who CONTRACTOR desires to employ or retain under a contract, and who (1) presently serves as a Board Member/Alternate or an employee of OMNITRANS, or (2) served as a Board Member/Alternate or an employee of OMNITRANS within the previous 12 months of the date of the proposed employment or retention by CONTRACTOR. CONTRACTOR's written notice shall indicate whether the individual will be an officer, principal or shareholder of the entity and/or will participate in the performance of this Agreement.

26. DISQUALIFYING POLITICAL CONTRIBUTIONS

In the event of a proposed amendment to this Agreement, CONTRACTOR shall provide prior to the execution of such amendment, a written statement disclosing any contribution(s) of \$250 or more made by CONTRACTOR or its subcontractor(s) to Omnitrans Board Members/Alternates or employees within the preceding twelve (12) months of the date of the proposed amendment. Applicable contributions include those made by any agent/person/entity on behalf of CONTRACTOR or subcontractor(s).

27. COMPLIANCE WITH LAW

CONTRACTOR shall familiarize itself with and perform the Work required under this Agreement in conformity with requirements and standards of OMNITRANS, municipal and public agencies, public and private utilities, special districts, and railroad agencies whose facilities and work may be affected by Work under this Agreement. CONTRACTOR shall also comply with all Federal, state and local laws and ordinances.

28. COMPLIANCE WITH LOBBYING POLICIES

- A. CONTRACTOR agrees that if it is a Lobbyist Employer or if it has retained a Lobbying Firm or Lobbyist, as such terms are defined by OMNITRANS in its Ethics Policy, it shall comply or ensure that its Lobbying Firm and Lobbyist complies with OMNITRANS' Ethics Policy.
- B. If CONTRACTOR (Lobbyist Employer) or its Lobbying Firm or Lobbyist fails to comply, in whole or in part, with OMNITRANS' Ethics Policy, such failure shall be considered a material breach of this Agreement and OMNITRANS shall have the right to immediately terminate or suspend this Agreement.

29. PUBLIC RECORDS ACT

- A. All records, documents, drawings, plans, specifications and other material relating to conduct of OMNITRANS' business, including materials submitted by CONTRACTOR in its proposal and during the course of performing the Work under this Agreement, shall become the exclusive property of OMNITRANS and may be deemed public records. Said materials may be subject to the provisions of the California Public Records Act. OMNITRANS' use and disclosure of its records are governed by this Act.
- B. OMNITRANS will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act, including interpretations of the Act or the definitions of trade secret, confidential or proprietary. OMNITRANS will accept materials clearly and prominently labeled "TRADE SECRET" or "CONFIDENTIAL" or "PROPRIETARY" as determined by CONTRACTOR. OMNITRANS will endeavor to notify CONTRACTOR of any request of the disclosure of such materials. Under no circumstances, however, will OMNITRANS be liable or responsible for the disclosure of any labeled materials whether the disclosure is required by law or a court order or occurs through inadvertence, mistake or negligence on the part of OMNITRANS or its officers, employees and/or contractors.
- C. In the event of litigation concerning the disclosure of any material submitted by CONTRACTOR, OMNITRANS' sole involvement will be as a stake holder, retaining the material until otherwise ordered by a court. CONTRACTOR, at its sole expense and risk, shall be responsible for prosecuting or defending any action concerning the materials, and shall defend, indemnify and hold OMNITRANS harmless from all costs and expenses, including attorneys' fees, in connection with such action.

30. WAIVER/INVALIDITY

No waiver of a breach of any provision of this Agreement by either party shall constitute a waiver of any other breach of the provision, or of any other breach of the provision of the Agreement. Failure of either party to enforce any provision of this Agreement at any time shall not be construed as a waiver of that provision.

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

31. FORCE MAJEURE

Performance of each and all CONTRACTOR's and OMNITRANS' covenants herein shall be subject to such delays as may occur without CONTRACTOR's or OMNITRANS' fault from acts of God, strikes, riots, or from other similar causes beyond CONTRACTOR's or OMNITRANS' control.

32. CONFIDENTIALITY

CONTRACTOR agrees that for and during the entire term of this Agreement, any information, data, figures, records, findings and the like received or generated by CONTRACTOR in the performance of this Agreement, shall be considered and kept as the private and privileged records of OMNITRANS and will not be divulged to any person, firm, corporation, or other entity except on the direct prior written authorization of OMNITRANS. Further, upon expiration or termination of this Agreement for any reason, CONTRACTOR agrees that it will continue to treat as private and privileged any information, data, figures, records, findings and the like, and will not release any such information to any person, firm, corporation or other entity, either by statement, deposition, or as a witness, except upon direct prior written authority of OMNITRANS.

33. CONTRACTOR'S INTERACTION WITH THE MEDIA AND THE PUBLIC

- A. OMNITRANS shall review and approve in writing all OMNITRANS related copy proposed to be used by CONTRACTOR for advertising or public relations purposes prior to publication. CONTRACTOR shall not allow OMNITRANS related copy to be published in its advertisements and public relations programs prior to receiving such approval. CONTRACTOR shall ensure that all published information is factual and that it does not in any way imply that OMNITRANS endorses CONTRACTOR's firm, service, and/or product.
- B. CONTRACTOR shall refer all inquiries from the news media to OMNITRANS, and shall comply with the procedures of OMNITRANS' Public Affairs staff regarding statements to the media relating to this Agreement or the Work.
- C. If CONTRACTOR receives a complaint from a citizen or the community, CONTRACTOR shall inform OMNITRANS as soon as possible and inform OMNITRANS of any action taken to alleviate the situation.
- D. The provisions of this Article shall survive the termination or expiration of this Agreement.

34. GOVERNING LAW

The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of California, and the proper venue of any action brought hereunder is and shall be the County of San Bernardino, California.

35. MODIFICATIONS TO AGREEMENT

Unless specified otherwise in the Agreement, this Agreement may only be modified by written mutual consent evidenced by signatures of representatives

authorized to enter into and modify the Agreement. In order to be effective, amendments may require prior approval by OMNITRANS' Board of Directors, and in all instances require prior signature of an authorized representative of OMNITRANS.

36. LICENSING, PERMITS AND INSPECTION COSTS

- A. The FIRM warrants that it has all necessary licenses and permits required by the laws of the United States, State of California, and the County of San Bernardino, the Local Jurisdictions, and all other appropriate governmental agencies, and agrees to maintain these licenses and permits in effect for the duration of the Agreement. Further, FIRM warrants that its employees, agents, and contractors and subcontractors shall conduct themselves in compliance with such laws and licensure requirements including, without limitation, compliance with laws applicable to nondiscrimination, sexual harassment and ethical behavior throughout the duration of this Agreement. FIRM further warrants that it shall not retain or employ an unlicensed subcontractor to perform work on this Project. FIRM shall notify OMNITRANS immediately and in writing of its employees', agents', contractors' or subcontractors' inability to obtain or maintain, irrespective of the pendency of any appeal, any such licenses, permits, approvals, certificates, waivers, exemptions. Such inability shall be cause for termination of this Agreement.
- B. Contractor shall procure all permits and licenses; pay all charges, assessments and fees, as may be required by the ordinances and regulations of the public agencies having jurisdiction over the areas in which the work is located, and shall comply with all the terms and conditions thereof and with all lawful orders and regulations of each such public agency relating to construction operations under the jurisdiction of such agency.

37. LIQUIDATED DAMAGES

- A. Contractor's failure to deliver as per the requirements stated in the Agreement, and resulting in Omnitrans running out of lubricants at its onsite storage, shall result in liquidated damages being assessed against the lubricant supplier. Omnitrans will maintain a sufficient amount of lubricant to insure continuous operation of the fleet and bases its procurements on a three-day purchasing lead-time.
- B. These damages shall be deducted from any monies due, or which may thereafter become due, to Contractor under this Contract.
- C. Specific Daily Liquidated Damages Amount:
 - 1) Omnitrans and Contractor agree that in the event of any such delay the amount of damage which will be sustained shall be determined

by Omnitrans' actual lost revenue and incurred expenses, will be set at \$218.94 per day per bus.

- 2) Omnitrans and the Contractor agree that in the event of any such delay, the Contractor shall pay such amounts as liquidated damages and not as a penalty.

38. PRECEDENCE

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement, and any and all of its Amendments, Appendices, Exhibits and Attachments; (2) provisions of IFB-MNT16-109 and any and all of its Amendments, Appendices, Exhibits and Attachments; and (3) CONTRACTOR's bid dated .

39. ENTIRE AGREEMENT

This Agreement, and any attachments or documents incorporated herein by inclusion or by reference, constitutes the complete and entire agreement between OMNITRANS and CONTRACTOR and supersedes any prior representations, understandings, communications, commitments, agreements or proposals, oral or written.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date shown below, and effective on the date first hereinabove written.

OMNITRANS .

P. SCOTT GRAHAM
CEO/General Manager

DATE

DATE

Federal Tax I.D. No.

DP_____

CM_____

ATTACHMENT A – SCOPE OF WORK
MISC BULK OILS AND LUBRICANTS

1. INTRODUCTION

SUMMARY

- 1) Contractor shall provide Omnitrans with indefinite quantities of MISC bulk oils and lubricants.
- 2) Omnitrans operates a fixed route fleet of approximately 186 Compressed Natural Gas (CNG) buses. Though subject to change, Omnitrans' total fixed route fleet will be split between the East Valley (San Bernardino) and West Valley (Montclair), with approximately 66% of the total fleet at East Valley and 34% at its West Valley locations.

2. SPECIFICATIONS

GENERAL

- 1) Contractor shall provide lubricants (motor oil, Automatic Transmission Fluid (ATF), gear oil, etc.) requirements for Omnitrans' East Valley and West Valley fixed route operations facilities.
- 2) Goods and services described herein are required on an as-needed basis with no fixed or guaranteed usage.
- 3) Pricing shall include all direct and indirect costs.

3. STATEMENT OF WORK

GENERAL

- 1) Contractor shall make every effort to avoid drum/barrel charges by informing Omnitrans' representative at the time of delivery how many drums/barrels were delivered and make every effort to pick up an equal amount of drums/barrels to offset any related charges. Drum/barrel credit shall be equal to drum/barrel deposit.
- 2) Contractor shall provide and deliver lubricants to Omnitrans' bulk storage facilities located at the East Valley (San Bernardino) and West Valley (Montclair).
 - a) Omnitrans reserves the right to add or delete facilities within Omnitrans' service area, as needed, under the pricing terms established herein.
- 3) Contractor shall provide and deliver lubricants to Omnitrans' designated locations on an as-needed basis, or as required by Omnitrans and deliver each commodity within 48 hours of placing order, ensuring that Omnitrans is supplied, at all times, with sufficient lubricant reserves, as required.
 - a) Contractor shall work with Omnitrans' designated representative to maximize cost efficiencies based upon 'flexible' delivery scheduling.
 - b) Contractor shall provide samples of products to be lab tested upon request.

**ATTACHMENT A – SCOPE OF WORK
MISC BULK OILS AND LUBRICANTS**

- 4) Contractor shall furnish all trucks, trailers, off-loading hose(s), tools, equipment, resources, apparatus, facilities, transportation, labor and materials necessary to meet the requirements as described herein.
- 5) Contractor shall provide Omnitrans with proof of compliance, upon request, of relevant local, state, and federal laws/regulations, and Contractor shall notify Omnitrans, in writing, of any changes, updates, addendums, or modifications in relevant regulations, laws, statutes and policies.
- 6) Contractor shall notify Omnitrans prior to the delivery of any reformulation of products; any changes shall not be accepted without the prior written consent of Omnitrans. In the event of a reformulation of any product, Contractor shall promptly provide Omnitrans' Project Manager and Contract Administrator with a new MSDS/SDS.

4. MISC BULK OIL AND LUBRICANT REQUIREMENTS

1) MOTOR OIL

- a) **Quantities.** It is anticipated that the estimated motor oil requirements are as follows:

East & West Valley Facility	Est. Annual Usage (gal)
August 1, 2016 - June 30, 2017	14,500
July 1, 2017 - June 30, 2018	14,500
July 1, 2018 - June 30, 2019	14,500
July 1, 2019 - June 30, 2020	16,000
July 1, 2020 - June 30, 2021	16,000

- b) **Oil Usage.** Motor Oil usage is provided as an estimate only and is not a guaranteed usage.

c) **Type of Motor Oil.**

- (1) Contractor shall provide:

- (a) SAE 15W-40 76 Triton VGEO Plus detergent motor oil, or an approved equal
- (b) Specific Gravity @ 60°F 0.875
- (c) Density, lbs./gal @ 60°F 7.29
- (d) Color, ASTM D1500 7.5
- (e) Flash Point (COC), °C (°F) 227 (441)
- (f) Pour Point, °C (°F) -36 (-33)
- (g) Viscosity, Kinematic cSt @ 40°C 114 cSt @ 100°C 15.2

ATTACHMENT A – SCOPE OF WORK
MISC BULK OILS AND LUBRICANTS

- (h) Viscosity Index 137
 - (i) Cold Cranking Viscosity, cP @ -20°C 6,300
 - (j) Sulfated Ash, ASTM D874, wt % 0.76
 - (k) Total Base Number (TBN), ASTM D2896 6.0
 - (l) Phosphorus, wt % 0.080
 - (m) Zinc, wt % 0.088
- (2) No synthetics will be accepted.
- (3) The brand name, specifications and MSDS/SDS for the brand of motor oil being provided shall be included at the time of bid submittal.
- (4) The following brands are approved as approved equals:
 - (a) Guardol NG 15W-40
 - (b) NGENO Mobile 15W-40 Gas Engine Oil
 - (c) SAE 15W-40 CNG Plus
 - (d) Valvoline Premium Blue GEO M85 15W-40
 - (e) Motor Guard MGL 15W-40
 - (f) Shell Rotella T3 NG 15W-40
- d) **Storage Capacity for SAE 15W-40 Motor Oil.** SAE 15W-40 motor oil is purchased in barrels with the following storage containers available:
 - (1) East Valley (San Bernardino) – 3,250 gallons
 - (2) West Valley (Montclair) – 2,500 gallons
- e) **Contractor Responsibilities**
 - (1) To ensure regulatory compliance, only California-compliant oils shall be supplied to Omnitrans, in accordance with all Federal Environmental Protection Agency, California Air Resources Board and South Coast Air Quality Management District emissions standards.
 - (2) The appropriate MSDS/SDS update shall be provided to Omnitrans' Project Manager and Contract Administrator.
- f) **Pricing.**

Motor oil shall be bid at a fixed unit price.
- g) **Applicable Taxes.** At the current time, motor oil is subject to California State Sales and Local Tax at a rate of 8.25%.
- 2) **AUTOMATIC TRANSMISSION FLUID (ATF) FOR ALLISON AND VOITH TRANSMISSIONS**

ATTACHMENT A – SCOPE OF WORK
MISC BULK OILS AND LUBRICANTS

- a) **Quantities.** It is anticipated that the estimated automatic transmission fluid requirements are as follows:

East & West Valley Facility	Est. Annual Usage (gal)
August 1, 2016 - June 30, 2017	2,000
July 1, 2017 - June 30, 2018	2,000
July 1, 2018 - June 30, 2019	2,000
July 1, 2019 - June 30, 2020	2,300
July 1, 2020 - June 30, 2021	2,300

- b) **Automatic Transmission Fluid Usage.** ATF usage is provided as an estimate only and is not a guaranteed usage.

c) **Type of Automatic Transmission Fluid**

- (1) Contractor shall provide:
 - (a) Castrol TranSynd, or approved equal
 - (b) Density, g/ml @ 0.848 (ASTM D4052)
 - (c) Colour, Red
 - (d) Appearance, Bright and Clear
 - (e) Viscosity, Kinematic 100C, 7.4 mm²/s (ASTM D445)
 - (f) Pour Point -63°C (ASTM D97)
 - (g) Flash Point, COC 235 °C (ASTM D92)
 - (h) Viscosity, Kinematic 40°C, 38 mm²/s (ASTM D445)
 - (i) Viscosity Index 157 (ASTM D2270)
 - (j) Viscosity, Brookfield @ -40°C (75W), 8500 mPa.s (cP)
- (2) To ensure warranty compliance, Omnitrans requires Bidders to provide one brand of fluid meeting **both** Allison and Voith transmission manufacturers' approved fluids.
- (3) The brand name, specifications and MSDS/SDS for the brand of ATF being bid shall be provided to Omnitrans' Contract Administrator as part of the bid submittal.
- (4) The following brands meet both manufacturers' approved fluid requirements:
 - (a) BP Autran Syn 295

ATTACHMENT A – SCOPE OF WORK
MISC BULK OILS AND LUBRICANTS

- (b) Mobile Delvac Synthetic ATF/ Mobile Delvac 1 ATF
 - (c) Shell Spirax S6 ATF A295
 - (d) Castrol TranSynd
- d) **Storage Capacity for Automatic Transmission Fluid.**
 - (1) East Valley Facility – 2,000 gallons (two 1000 gallon tanks)
 - (2) West Valley Facility - 1,000 gallons (two 500 gallon tanks)
- e) **Supplier Responsibilities**
 - (1) Only California-compliant fluids shall be supplied to Omnitrans to ensure regulatory compliance is maintained in accordance with all Federal Environmental Protection Agency, California Air Resources Board and South Coast Air Quality Management District emissions standards.
 - (2) In the event an improper grade of ATF is delivered, or in the event of the ATF being delivered into the wrong storage tank, causing contents of the tank become contaminated, the Contractor shall, at its own expense, remove contaminated product, clean the affected tank, dispose of and replace the contaminated product, within 48 hours.
- f) **Pricing.** ATF shall be bid at a fixed unit price.
- g) **Applicable Taxes.** At the current time, automatic transmission fluid is subject to California State and Local Sales Tax at a rate of 8.25%.

3) **MULTI-PURPOSE GEAR OIL**

- a) **Quantities.** It is anticipated that the estimated gear oil requirements are as follows:

East & West Valley Facility	Est. Annual Usage (gal)
August 1, 2016 - June 30, 2017	1600
July 1, 2017 - June 30, 2018	1600
July 1, 2018 - June 30, 2019	1600
July 1, 2019 - June 30, 2020	1700
July 1, 2020 - June 30, 2021	1700

- b) **Gear Oil Usage.** Multipurpose gear oil usage is provided as an estimate only and is not a guaranteed usage.

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MISC BULK OILS AND LUBRICANTS

c) Types of Multipurpose Gear Oil

- (1) Contractor shall provide:
EP (Extreme Pressure) SAE 80W-90 MAN 342, MIL-L 2105C/D API-GL 5.
- (2) Any regulatory changes to this type of product shall apply.
- (3) No synthetics will be accepted.
- (4) The brand name, specifications and MSDS/SDS for the brand of multipurpose gear oil being provided shall be included at the time of bid submittal.
- (5) The following brands are approved as approved equals:
 - (a) Motor Guard Lubricants 80W90 GL5
 - (b) Peak Performance SAE 80W90
 - (c) Quantum MP SAE 80W90
 - (d) All Weather Gear Oil
 - (e) Valvoline Heavy Duty SAE 80W-90 API GL-5
 - (f) Motor Guard MGL 80W90 GL-5
 - (g) MP Gear Lube

d) Storage Capacity for Multipurpose Gear Oil.

- (1) Multipurpose gear oil is purchased in bulk and barrels.
- (2) East Valley Facility - 275 gallons
- (3) West Valley Facility - 500 gallons

e) Supplier Responsibilities

- (1) To ensure regulatory compliance, only California-compliant multipurpose gear oil shall be supplied to Omnitrans, in accordance with all Federal Environmental Protection Agency, California Air Resources Board and South Coast Air Quality Management District emissions standards.
- (2) In the event an improper grade of multipurpose gear oil is delivered, or in the event of the multipurpose gear oil being delivered into the wrong storage tank, causing contents of the tank become contaminated, the Contractor shall, at its own expense, remove contaminated product, clean the affected tank, dispose of and replace the contaminated product, within 48 hours.

f) Pricing. Multipurpose gear oil shall be bid at a fixed unit price.

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MISC BULK OILS AND LUBRICANTS

- g) **Applicable Taxes.** At the current time, multipurpose gear oil is subject to California State and Local Sales Tax at a rate of 8.25%.

4) **HYDRAULIC FLUID AW ISO 32**

- a) **Quantities.** It is anticipated that the estimated hydraulic fluid requirements are as follows:

East & West Valley Facility	Est. Annual Usage (gal)
August 1, 2016 - June 30, 2017	880
July 1, 2017 - June 30, 2018	880
July 1, 2018 - June 30, 2019	880
July 1, 2019 - June 30, 2020	1000
July 1, 2020 - June 30, 2021	1000

- b) **Hydraulic Fluid** usage is provided as an estimate only and is not a guaranteed usage.

c) **Types of Hydraulic Fluid**

- (1) Contractor shall provide:
ISO 32 – Anti-wear Hydraulic Fluid
- (2) Any regulatory changes to this type of product shall apply.
- (3) The brand name, specifications and MSDS/SDS for the brand of hydraulic fluid being provided shall be included at the time of bid submittal.
- (4) The following brands were previously approved:
 - (a) Azolla ZS Plus
 - (b) Quantum AW
 - (c) Motor Guard Lubricants
 - (d) Performance Plus AW 32
 - (e) Valvoline AW ISO 32
 - (f) Motor Guard Hydraulic Fluid
 - (g) Megaflo AW Hydraulic Oil

d) **Storage Capacity for Hydraulic Fluid**

- (1) Contractor shall deliver hydraulic fluid in 55 gallon drums/barrels.

e) **Contractor Responsibilities**

- (1) To ensure regulatory compliance, only California-compliant hydraulic fluid shall be supplied to Omnitrans, in

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MISC BULK OILS AND LUBRICANTS

accordance with all Federal Environmental Protection Agency, California Air Resources Board and South Coast Air Quality Management District emissions standards.

- (2) In the event the improper hydraulic fluid is delivered, or in the event of the hydraulic fluid being delivered into the wrong storage tank, causing contents of the tank become contaminated, the Contractor shall, at its own expense, remove contaminated product, clean the affected tank, dispose of and replace the contaminated product, within 48 hours.

- f) **Pricing.** Hydraulic Fluid shall be bid at a fixed unit price.
- g) **Applicable Taxes.** At the current time, hydraulic oil is subject to California State and Local Sales Tax at a rate of 8.25%.

5) RED GREASE EP SUPER PREMIUM NLGI

- a) **Quantities.** It is anticipated that the estimated red grease requirements are as follows:

East & West Valley Facility	Est. Annual Usage (pounds)
August 1, 2016 - June 30, 2017	4,000
July 1, 2017 - June 30, 2018	4,000
July 1, 2018 - June 30, 2019	4,000
July 1, 2019 - June 30, 2020	4,400
July 1, 2020 - June 30, 2021	4,400

- b) **Red Grease Usage.** Red grease usage is provided as an estimate only and is not a guaranteed usage.

c) **Types of Red Grease**

- (1) Contractor shall provide:

Red-i EP (Extreme Pressure) Super Premium Red Grease NLGI #1 or an approved equal.

- (a) Penetration @ 77° F. (ASTM Worked) - 310-340
- (b) Dropping Point, ASTM, °F. – 550
- (c) Soap Type - Lithium Complex
- (d) Color - Red
- (e) Appearance - Smooth and Tacky
- (f) Timken OK Load, Lb. - 70 lbs.
- (g) Base Oil Viscosity: cSt.

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- (i) @ 40°C. cSt. – 336
 - (ii) @ 100°C. - 22.0
 - (h) Water Washout Loss % - 6
 - (i) 4 Ball Wear Test: 0.28
 - (j) 40kg @ 1200rpm, 75°C, 1hr. - 0.55 mm.
- Red-i EP (Extreme Pressure) Super Premium Red Grease NLGI #2 or an approved equal.
- (a) Penetration @ 77° F. (ASTM Worked) - 310-340
 - (b) Dropping Point, ASTM, °F. – 550
 - (c) Soap Type - Lithium Complex
 - (d) Color - Red
 - (e) Appearance - Smooth and Tacky
 - (f) Timken OK Load, Lb. - 70 lbs.
 - (g) Base Oil Viscosity: cSt.
 - (i) @ 40°C. cSt. – 336
 - (ii) @ 100°C. - 22.0
 - (h) Water Washout Loss % - 5
 - (i) 4 Ball Wear Test: 0.28
 - (j) 40kg @ 1200rpm, 75°C, 1hr. - 0.56 mm.
- (2) Any regulatory changes to this type of product shall apply.
- (3) The brand name, specifications and MSDS/SDS for the brand of red grease being bid shall be included at the time of bid submittal.
- (4) The following brands are approved as approved equals:
 - (a) Hyperion RED Premium Grease EP 2
 - (b) Shell Gadus S3 V220C 2
 - (c) Chevron Ultra-Duty Grease EP NLGI-2
- d) Storage Capacity for Red Grease.**
 - (1) Contractor shall deliver red grease in 400 pound drums/barrels.
- e) Contractor Responsibilities**
 - (1) To ensure regulatory compliance, only California-compliant red grease shall be supplied to Omnitrans, in accordance with all Federal Environmental Protection

ATTACHMENT A – SCOPE OF WORK
MISC BULK OILS AND LUBRICANTS

Agency, California Air Resources Board and South Coast Air Quality Management District emissions standards.

- (2) In the event improper red grease is delivered, or in the event of red grease being delivered into the wrong storage tank, causing contents of the tank become contaminated, the Contractor shall, at its own expense, remove contaminated product, clean the affected tank, dispose of and replace the contaminated product, within 48 hours.

- f) **Pricing.** Red Grease shall be bid at a fixed unit price.
- g) **Applicable Taxes.** At the current time, red grease is subject to California State and Local Sales Tax at a rate of 8.25%.

7. QUANTITY

- 1) Omnitrans does not guarantee the purchase of a particular volume or amount.
- 2) Contractor shall guarantee supply of Omnitrans' MISC bulk oil lubricant requirements as herein described.

8. PREPARATION AND DELIVERY

- 1) The MISC bulk oils and lubricants delivery hours are between 7 a.m. and 4 p.m. Monday through Sunday each week, except holidays.
 - a) Contractor shall address and coordinate the scheduling of MISC bulk oils and lubricants deliveries with Omnitrans representative in order to accommodate Omnitrans' holiday schedule.
 - b) Omnitrans observes the following national holidays: Labor Day, Memorial Day, Independence Day, Thanksgiving, Christmas, and New Year's Day.
- 2) Contractor shall provide MISC bulk oils and lubricants within 48 hours of each order date.
- 3) All freight/delivery charges shall be included in the Contractor's price as the terms shall be F.O.B. destination.
- 4) Contractor shall assume full responsibility for providing tankers or transportation containers suitable for delivery of the MISC bulk oils and lubricants to the appropriate Omnitrans bulk storage tank(s).
 - a) Contractor shall be responsible for unloading lubricants into Omnitrans' bulk storage tanks and providing trained personnel capable of performing the unloading of lubricants without assistance from Omnitrans personnel.
 - b) All tanker trucks making deliveries shall be properly certified by the State of California including but not limited to, Vehicle Tank

**ATTACHMENT A – SCOPE OF WORK
MISC BULK OILS AND LUBRICANTS**

Measurement Certificates, and in accordance with Federal Department of Transportation regulations, policies, and procedures.

- (1) If requested, the Contractor shall provide copies of requested certificates within three (3) business days after notification is received from a designated Omnitrans representative.
- 5) Contractor, its agents or employees, must notify Omnitrans' shop supervisor, or his/her designee, upon delivery of MISC bulk oils and lubricants, as all lubricant deliveries to Omnitrans' bulk storage tanks must be acknowledged by designated Omnitrans representative.
 - a) Contractor shall, at its expense, make every reasonable effort necessary to maintain minimum lubricant levels. Contractor agrees to notify Omnitrans' designated representative if, at any time, it appears that the delivery schedule set forth may not be met.
 - (1) Such notification shall include the reasons for any possible delays, and steps being taken by Contractor to remedy any such problem(s).
 - (2) Nothing herein shall be interpreted as waiving remedies otherwise available to Omnitrans.
- 6) The bid prices must include all freight/delivery charges and applicable fees.

9. INSPECTION OF SERVICES

- A. All services provided and materials utilized in the performance of such services, shall be subject to inspection by Omnitrans, or its designee, to the extent practicable at all times and places.
 - 1) All inspections made by Omnitrans, or its designee, shall be made in such a manner as not to unduly delay the Contractor's delivery and/or dispensing of fuel.
 - 2) Contractor shall agree to provide samples at any requested time.

10. PERMITS AND LICENSES

- A. Contractor shall be responsible for obtaining all necessary permits and licenses required by local, state, and federal authorities.
 - 1) Contractor shall pay all charges and fees, and furnish all notices necessary for lawful execution of the work.
 - 2) Contractor shall give all required notices and comply with all federal, state, and local laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of this Agreement including, but not limited to, the California Air Resources Board's (CARB)

ATTACHMENT A – SCOPE OF WORK
MISC BULK OILS AND LUBRICANTS

reformulated fuel regulations and the requirements of the Environmental Protection Agency (EPA).

- a) Upon request, the Contractor shall furnish to Omnitrans certificates and/or other proof of compliance with all such laws, orders, regulations and driving records of the supplier truck drivers.
- b) Contractor shall be fully responsible for all shipments to ensure that each shipment meets relevant state and federal requirements.

11. OMNITRANS' RESPONSIBILITIES

Omnitrans' shall, at all times, provide reasonable access to the facility, and shall permit the unloading of Contractor trucks at the delivery locations without undue delay.

12. EMPLOYEE HAZARDS

- A. Contractor shall perform all work in a clean, safe and professional manner, causing no hazards to Omnitrans' staff, facility, the environment or Contractor's service personnel.
- B. All hazardous waste must be handled, collected, stored and disposed of in accordance with federal, state and local environmental compliance regulations.

End of Scope of Work

ATTACHMENT B - PRICING
MNT16-109 - Patten Energy
MISC BULK OILS AND LUBRICANTS

Item Num	Description	Unit of Measure	*Quantity	**Unit Price
1	SAE 15W-40 MOTOR OIL 76 TRITON VGEO PLUS	GALLON	1	\$5.50
2	ALLISON AND VOITH APPROVED AUTOMATIC TR	GALLON	1	\$9.48
3	76 UNOCAL MULTI PURPOSE 80W-90 GEAR OIL	GALLON	1	\$6.12
4	ISO 32 ANTIWEAR HYDRAULIC FLUID	GALLON	1	\$4.12
5	RED-I EP (EXTREME PRESSURE) SUPER PREMIUM POUND		1	\$1.80
7	DRUM/BARREL DEPOSIT AND CREDIT FEE	LOT	1	\$25.00
8	CALIFORNIA STATE LUBE FEE	LOT	1	\$0.04
9	CALIFORNIA OIL RECYCLING FEE	LOT	1	\$0.24

*Omnitrans makes no guarantee of usage of items with regard to quantity.

**The above itemized pricing shall remain fixed for a six month period. Thereafter, unit price(s) may be adjusted, (+/-) every six months reflecting the change in the Consumer Price Index (CPI)-U.

ATTACHMENT B - PRICING
MNT16-109 - Rosemead Oil
MISC BULK OILS AND LUBRICANTS

Item Num	Description	Unit of Me	Quantity	Unit Price
1	SAE 15W-40 MOTOR OIL 76 TRITON VGEO PLUS	GALLON	14500	\$6.40
2	ALLISON AND VOITH APPROVED AUTOMATIC TRANSMISSION FLUID (ATF)	GALLON	2000	\$27.69
3	76 UNOCAL MULTI PURPOSE 80W-90 GEAR OIL	GALLON	1600	\$7.82
4	ISO 32 ANTIWEAR HYDRAULIC FLUID	GALLON	880	\$5.85
5	RED-I EP (EXTREME PRESSURE) SUPER PREMIUM RED GREASE	POUND	4000	\$2.11

*Omnitrans makes no guarantee of usage of items with regard to quantity

**The above itemized pricing shall remain fixed for a six month period. Thereafter, unit price(s) may be adjusted, (+/-) every six months reflected the change in the Consumer Price Index (CPI)-U.

ATTACHMENT B - PRICING				
MNT16-109 - Dion & Sons				
MISC BULK OILS AND LUBRICANTS				
Item Num	Description	Unit of Measure	*Quantity	**Unit Price
1	ALLISON AND VOITH APPROVED AUTOMATIC TRANSMISSION FLUID (ATF)	GALLON	1	\$10.41
2	RED-I EP (EXTREME PRESSURE) SUPER PREMIUM RED GREASE	POUND	1	\$2.84
	*Omnitrans makes no guarantee of usage of items with regard to quantity			
	**The above itemized pricing shall remain fixed for a six month period. Thereafter, unit price(s) may be adjusted, (+/-) every six months reflected the change in the Consumer Price Index (CPI)-U.			

ATTACHMENT B - PRICING
MNT16-109 - Safety-Kleen Systems
MISC BULK OILS AND LUBRICANTS

Item Num	Description	Unit of Measure	*Quantity	**Unit Price
1	ISO 32 ANTIWEAR HYDRAULIC FLUID	GALLON	880	\$4.22

*Omnitrans makes no guarantee of usage of items with regard to quantity

**The above itemized pricing shall remain fixed for a six month period. Thereafter, unit price(s) may be adjusted, (+/-) every six months reflected the change in the Consumer Price Index (CPI)-U.

ATTACHMENT B - PRICING
MNT16-109 - Merit Oil
MISC BULK OILS AND LUBRICANTS

Item Num	Description	Unit of Measure	*Quantity	**Unit Price
1	SAE 15W-40 MOTOR OIL 76 TRITON VGEO PLUS	GALLON	14500	\$6.94
2	RED-I EP (EXTREME PRESSURE) SUPER PREMIUM RED GREASE	POUND	4000	\$1.89

*Omnitrans makes no guarantee of usage of items with regard to quantity

**The above itemized pricing shall remain fixed for a six month period. Thereafter, unit price(s) may be adjusted, (+/-) every six months reflected the change in the Consumer Price Index (CPI)-U.

ITEM # H2

DATE: December 7, 2016

TO: Board Chair Sam Spagnolo and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Marjorie Ewing, Director of Human Resources/Safety & Regulatory Compliance

**SUBJECT: APPROVE MEMORANDUM OF UNDERSTANDING BETWEEN
OMNITRANS AND AMALGAMATED TRANSIT UNION LOCAL #1704**

FORM MOTION

Approve Memorandum of Understanding (MOU) between Omnitrans and Amalgamated Transit Union Local #1704, for the Coach Operator Unit, effective April 1, 2016 through March 31, 2019.

BACKGROUND

The Omnitrans Negotiation Team of Marjorie Ewing, Human Resources/Safety & Regulatory Compliance Director, Diane Caldera, Operations Director, Doug Stanley, Transportation Manager, and Jeremiah Bryant, Planning and Scheduling Manager, began negotiations with the Amalgamated Transit Union Local #1704 for the Coach Operators Unit in January 2016. In all, 34 negotiating sessions were held.

On November 22, 2016, the Omnitrans Negotiating Team and the Union met and was able to accomplish a Tentative Agreement on all 63 articles. The Union agreed to present the Tentative Agreement Offer to its membership on Tuesday, December 6, 2016. The results of the ATU membership vote for the Tentative Agreement Offer will be announced at the Board Meeting. If the offer fails, this agenda item will be pulled.

Highlights of the MOU are as follows:

ECONOMICS

Wages:

- The employee will pay their contribution to PERS covered by an offsetting wage increase funded by changes to the Comprehensive Benefits: 7%
- Year #1: Wages for Yr. 2016-2017: 2.50%
- Year #2: Wages for Yr. 2017-2018: 2.75%

- Year #3: Wages for Yr. 2018-2019: 2.75%
- Elimination of Step B in wage progression table for new employees. Overall progression timeline to get to top step remains the same; however, the first increase will occur after 1 year instead of after 6 months.
- Minor change reducing sign-on and sign-off time.

Comprehensive Benefits:

- Employee bucket has been removed and replaced with a percentage base coverage. The Agency shall contribute the following premium cost to either of the Agency-approved plans:
 - Single – 100%
 - Two Party – 85%
 - Family – 65%
 - Part-Time – 30%
- The majority of employees previously paid for the employee share of PERS from the benefit bucket. This option is no longer available.
- Opt Out Provision with creditable coverage as determined by Northwest Administrators, Inc., will receive a monthly dollar amount into the ICMA 457 Plan:
 - Full-Time - \$250
 - Part-Time - \$125

NON-ECONOMICS

Grievances:

- Language update from arbitration cases/settlement agreements

BRT Services:

- Operator eligibility/seniority language clarification; Withdraw sbX-BRT Arb 16-26

FUNDING SOURCE

The cost associated with this action is included in salary and benefit budget line items in the Operations Department.

Department 1100
Expenditure Code Various

_____ Verification of Funding Sources and Availability of Funds
(Verified and initialed by Finance)

CONCLUSION

Upon approval of the Memorandum of Understanding, economic and non-economic changes to the MOU will be reviewed by the negotiation team prior to final printing to ensure all changes are correctly reflected in the new contract in accordance with the tentative agreement.

PSG:ME