



BOARD OF DIRECTORS
JUNE 7, 2017
CONTRACTS SUPPLEMENTAL INFORMATION

ITEM #E16	BUS STOP SIGNS
ITEM #F4	COOLANT SUPPLY SERVICES
ITEM #F5	PROMOTIONAL ITEMS (A-C)
ITEM #F6	ONLINE BIDDING SYSTEM



CONTRACT AGREEMENT

between

CONTRACTOR

Here's Your Sign, Inc.
dba Signs Now of Redlands
404 E. Redlands Blvd.
Redlands, CA 92373

(hereinafter "CONTRACTOR")
Contact: Misty Hamby, Production Mgr.
Telephone: (909) 792-5577
Email: misty@signsnowredlands.com

And

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

CONTRACT DOCUMENTS

CONTRACT NO. MKP17-73

Bus Stop Signs

Contract Amount: \$33,100

Omnitrans Project Manager:

Name: Melvin Cabang
Title: Stops & Stations Supv.
Telephone: (909) 379-7153
Email: melvin.cabang@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

ATTACHMENT C - FORMS

This Agreement is made and entered into as of this ____ day of _____, and between Omnitrans (hereinafter referred to as "OMNITRANS") and Here's Your Sign, Inc. dba Signs Now of Redlands (hereinafter referred to as "CONTRACTOR").

RECITALS

WHEREAS, OMNITRANS is a joint powers authority organized under Section 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.
- C. Contractor shall hold pricing firm for the duration of the three-year base contract term. On an annual basis thereafter, Contractor may submit a request for a price adjustment based on Consumer Price Index and must provide justification with the request.

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

- A. 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 B, and subject to the maximum cumulative payment obligation.
- B. OMNITRANS' maximum cumulative payment obligation under this Agreement shall not exceed Thirty-Three Thousand One Hundred Dollars (\$33,100), 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.
- C. Option year pricing shall be determined using the change (increase or decrease) of Consumer Price Index (CPI).

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

Contracts@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: Christine Van Matre
Contract Administrator

Signs Now of Redlands
404 E. Redlands Blvd.
Redlands, CA 92373
Attn: Misty Hamby
Production Manager

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: Donald Walker, Director of Finance.

- 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>
Misty Hamby	Production Manager
Mario Ortez	Design
Raul Perez	Production

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.

CONTRACTOR shall not, without the express written consent of Omnitrans, either:

- a. Substitute any person, firm, or corporation as subcontractor in place of the subcontractors identified below; or
- b. Permit any subcontract to be assigned or transferred; or
- c. Allow work to be performed by anyone other than the original subcontractor listed below.

Subcontractor’s Name and Address	Work to Be Performed
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 RFQ-MKP17-73 and any and all of its Addenda, Appendices, Exhibits and Attachments; and (3) CONTRACTOR's bid dated March 28, 2017.

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

HERE'S YOUR SIGN, INC.
dba SIGNS NOW OF REDLANDS

P. Scott Graham
CEO/General Manager

Bradley Evans
President

Date

Date

Federal Tax I.D. No. 81-3561928

DP____

ATTACHMENT A - SCOPE OF WORK
MKP17-73
BUS STOP SIGNS

1. INTRODUCTION

Contractor shall provide signs for Omnitrans' bus stops. The signs will be used to identify Omnitrans' bus stop locations and provide bus route information as well as several means of obtaining bus route information. Signs will be exposed to outdoor elements and exposed to typical forms of vandalism that may occur to signs installed along a road way, such as written graffiti or printed stickers. Cleaning of signs by Omnitrans will primarily be done with citrus-based cleaners that remove felt pen, paint or adhesives and the signs must withstand these cleaning solutions with no damage or fading. The types of bus stop signs to be provided are:

- a. Bus Stop Route Destination Signs
- b. Auxiliary Route Destination Signs
- c. NexTrip Signs
- d. Decals for NexTrip Signs

2. GENERAL

- a. All materials and parts shall be new. No used, reconditioned or obsolete parts will be accepted.
- b. Any one unit furnished shall be an exact duplicate in manufacture, design and construction to all other units supplied as part of this order.
- c. All units or parts shall conform in material, design and workmanship to the best practice known in the industry.
- d. Contractor shall supply one prototype of each sign to Omnitrans located at 1700 W. Fifth Street, San Bernardino, CA 92411, Attention: Stops & Stations Supervisor, for approval and acceptance prior to final mass production of the signs.
- e. Should the supplied prototype not meet specifications and not be initially approved by Omnitrans, the Contractor will be required to submit subsequent prototypes at no cost to Omnitrans.
- f. The prototype(s) will be tested by Omnitrans in the environment that they will be used in for a period of not less than 5 days but not more than 10 days, to determine product resilience. The prototype(s) will be subject to typical abuse that will be seen in the public environment including but not limited to graffiti and the adhesion of decals.

3. MATERIALS

- a. Signs shall be reflectorized, two sided, single sheet aluminum.
- b. The base metal shall be new sheet 5052-H38 alloy aluminum, and thickness of 0.080 gauge (.004" tolerance).
- c. Manufacturers' initials and year of manufacture shall be shown on finished signs along

the left side of the sign (small print)

- d. Metal panels shall be cut to size and shape and be free of buckles, warps, dents, cockles, burrs and any other defects. Cutting and punching of the holes shall be completed prior to metal pretreatment.
- e. Prior to the application of reflective sheeting, the aluminum base metal shall be thoroughly cleaned, degreased and coated according to industry standards. After cleaning and coating, the panels shall be handled by mechanical device or operators wearing clean rubber or cotton gloves, and adequate precautions shall be taken to ensure that panels are protected at all times from contact or exposure to grease, oils, dust and other contaminants.
- f. Sheeting shall be series 15000, Nikkalite Super Engineer Grade Reflective Sheeting. The Contractor shall certify the purchase and use of this material.
- g. The reflective sheeting shall be applied and cleaned in accordance with manufacturer specifications for outdoor use.
- h. There shall be an anti-graffiti overlay applied to the front of the Bus Stop Sign that allows for Omnitrans' Route decals to be placed over it.
- i. There shall be no splicing of sheeting material on finished panels.
- j. No air pockets or bubbles shall exist between the sheeting and the base metal.
- k. The finished sign shall be flat within a ratio of 0.04 inches per linear foot when measured across the plane of each panel from opposite corners, or at any location on the panel. All finished signs shall have smooth flat surfaces without defects of or objectionable marks of any kind on either the front or back faces.
- l. The finished signs shall have a radius of three-quarters (3/4) inches, top and bottom.
- m. **Installation holes for bus stop destination signs and auxiliary destination signs shall be 7/16" diameter and shall be drilled in the top center and bottom center of each sign. The drill holes shall be 1.5 " from the top and bottom edge of the sign. This will result in 19" between the top and bottom holes on the "Bus Stop Destination" Signs and 6.625" between top and bottom holes on the "Auxiliary Route Destination" Signs. Installation holes for NexTrip signs shall also be 7/16" diameter and shall be drilled 7/8" from the top and bottom edge in the top center and bottom center of each sign. Also refer to Section 7, Bus Sign Examples.**
- n. NexTrip Bus Stops Signs will have an area of blank space next to the Stop # for a unique bus stop ID number decal and will have a generic QR code printed on each sign. All other information on the sign will be static information including the QR code. NexTrip signs shall be 9.75 inch X 6.5 inch in size. 7/16" diameter holes shall be drilled 7/8" on center from the top and bottom center of the sign.
- o. Stop ID number decals for the Nextrip signs will be a variable data printing job. One color white UV ink on a clear self-adhesive decal. The decals shall be square cut with variable data printing. The decal numerals shall be 3/4" in width and 1" in height and white in color and be no larger than 3 3/8" in width when all 4 numerals are side by side

and evenly spaced. The font will be Arial and in Bold. The clear background of the decal shall be 4 3/8" in width and 1.5" in height. The 4-digit white numerals shall be centered within the clear decal and have an even amount of space between them to allow for 1/4" at the top and the bottom of the numerals and 1/2" to the left of the first numeral and 1/2" to the right of the last numeral. There shall be no more than 1/8" of space between the numerals. The adhesive for the decals shall be strong enough to withstand the elements outdoors. These signs will be placed along the roadside and will need to withstand the heat, cold, wind, rain and the rest of the other types of elements that are typical to Southern California weather. The decals shall adhere to an anti-graffiti overlay that will be on the NexTrip signs. A sample of the decals shall be sent to Omnitrans for approval.

- p. A variable data list of approximately 2500 bus Stop ID numbers will be provided to the Contractor in Excel format. Five decals of each of the Stop ID numbers shall be created and delivered to Omnitrans in a box and in sequence from smallest to largest number. Decals may be ordered in random sequence after the initial order.
- q. Auxiliary Route Destination signs will be modifications of the "Bus Stop Destination". The signs will be 9.625 inches tall by 14 inches wide, showing the blue bottom portion of the "Bus Stops Destination" sign with the 5/8 inch reflective border. 7/16 inch holes to be drilled top and bottom center 1.5 inches from the top and bottom edge.
- r. The decal area for the Bus Stop Destination Signs and the Auxiliary Destination Signs shall be 8.375 (8 3/8) inches in height and 12.75 (12 3/4) inches in width, and shall be the same color blue. (3/4" radius corners top & bottom)

4. BUS STOP SIGN COLORS

- a. The colors will be of one of the following color formats for "Bus Stop Destination" Signs:
 - 1) CMYK**
 - a) Green 55c 15m 100y 0k
 - b) Blue 90 c 65 m 0y 0k
 - 2) RGB**
 - a) Green 131r 187g 65b
 - b) Blue 32r 98g 176b
 - 3) PMS**
 - a) Green 369C
 - b) Blue 660C
- b. Bus Stop Auxiliary Destination Sign shall be same "Blue" color used in the "Bus Stop Destination" sign
- c. The color blue for the "NexTrip" signs will be the same "Blue" color used in the "Bus Stop Destination" signs

- d. Omnitrans' trademark and the color lines shall be applied by silk screening. Silk screen inks shall be 3M series or approved equals compatible for use on SEG grade sheeting with outdoor durability, weather ability and citrus based solvent resistance. Contractor must have the capability to oven cure approved ink onto SEG grade reflective sheeting, producing a finished product resistant to citrus based graffiti remover. Protective coatings, such as an anti-graffiti overlay that would not allow for decal applications, will not be accepted on bus stop destination, auxiliary destination signs or NexTrip signs. Camera ready artwork will be supplied.

5. SIGN QUANTITIES AND DIMENSIONS

Omnitrans intends to place an initial order for the quantities listed herein. During the course of the contract, additional Bus Stop Destination Signs, Auxiliary Destination Signs, NexTrip Bus Stop Signs and Stop ID decals may be ordered. Quantities are not guaranteed.

- a. 1000 each: Bus Stop Designation Signs (Size 22" X 14") Initial order quantity 200. Additional yearly orders up to 200 per year in quantities of 100 per order.
- b. 250 each: Bus Stop Auxiliary Designation Signs (Size 9.625" X 14") Initial order quantity 50. Additional orders up to 50 per year.
- c. 1800 each: NexTrip Bus Stop Signs (size 9.75" X 6.5") Initial order quantity 600. Additional yearly orders up to 300 per year in quantities of 150 per order.
- d. 22,500 each: Stop ID Variable Data Decals individually numbered in sets of five (1.5"h X 4 3/8"w one color white UV ink printed on a clear background self-adhesive decal with variable data printing). Initial order quantity 12,500. Additional yearly orders up to 2,500 per year.

5. DELIVERY

- a. The Contractor shall package the product(s) in such a manner as to prevent damage during shipment, receiving and storage. The Contractor shall also ensure that shipped product(s) are not damaged. Any damaged product(s) discovered upon receipt at FOB point will be returned for credit or replacement at no cost to Omnitrans.
- b. Signs shall be packaged in bundles or packages not to exceed 40 pounds. Each bundle will be clearly marked with specific contents.
- c. The agreed upon delivery date will be within forty-five (45) days of receipt of purchase order.
- d. Omnitrans will not pay any premium handling charges related to expedited shipping. Omnitrans shall pay for direct and actual freight charges. Omnitrans reserves the right to request proof of freight charges or validate referenced charges independently.
- e. A priced invoice or packing slip (with related P.O. number) shall accompany all deliveries.
- f. Deliveries shall be made to Omnitrans prepaid F.O.B. destination.

- g. Delivery Location:
- Omnitrans
Attn: Stops & Stations Supervisor
Shipping and Receiving
1700 West 5th St.
San Bernardino, CA 92411

6. WARRANTY PROVISION

a. **Coverage**

All products supplied are warranted to be free from defects in material, workmanship and color fading for five (5) years beginning on the date of acceptance, except as specified below. The Contractor must submit their written standard limited warranty guarantee(s) to Omnitrans with their bid.

- 1) The warranty shall start from the date the product is delivered. Omnitrans' Warranty Coordinator shall show date of acceptance or proof of purchase receipt to qualify for warranty coverage.
- 2) Any supplier or manufacturer's standard limited warranty coverage greater than that specified above shall be extended to Omnitrans.
- 3) Contractor is responsible for correcting all defects upon notification, at no cost to Omnitrans.

b. **Limitations**

Warranty coverage shall not apply to failures that have been caused or contributed by the following:

- 1) Improper: use, servicing, maintenance, inspection and testing.
- 2) Failure to comply with the original equipment manufacturer's (OEM's) operating, maintenance, servicing, inspection and testing requirements.
- 3) Use of inadequate, improper or incompatible component(s).
- 4) Accident, negligence, abuse, not caused by Contractor or OEM.
- 5) Unauthorized modification of equipment affecting design or performance characteristics.
- 6) Use of non-approved products as specified by the OEM.

c. **Repair Procedures**

Omnitrans may require the Contractor to supply new products for warranty related repairs being performed by Omnitrans. These products shall be shipped prepaid to Omnitrans from any source selected by the contractor within three (3) working days of receipt of the request for said products. Products supplied by the Contractor shall be OEM or approved equal.

d. **Servicing**

The Contractor may be requested to provide field service support for the correction of warranty failures as required by Omnitrans.

e. **Claims**

All warranty defects and failures will be submitted to the Contractor as an Omnitrans warranty claim. The Contractor shall notify Omnitrans of receipt and/or status of the claim.

- 1) The Contractor shall notify Omnitrans in writing the disposition of a warranty claim within 15 days of receipt.
- 2) The Contractor shall resolve all open warranty claims within 60 days after receipt. If the warranty claim is not resolved within the stated time frame the Contractor will be informed of Omnitrans' intent to automatically credit Omnitrans' accounts payable for the Contractor with the amount of the open claim.
- 3) The Contractor is required to notify the Omnitrans' Warranty Coordinator on the disposition of products within five (5) days after Omnitrans' request for a Return Material Authorization (RMA).

f. **Remedies**

Contractor shall promptly repair, replace and/or pay for all warranty defects including products, labor, and shipping and handling. The Contractor shall also reimburse for any progressive, compensatory and consequential damages or fines due to product failures.

g. **Reimbursement**

Contractor shall reimburse Omnitrans for cost associated with a warranty repair claim or service request.

- 1) The product costs shall be based on the most current supplier contract price or the invoiced price for replacement.
- 2) The labor repair times shall be fair and reasonable and based on current OEM or industry Standard Repair Time (SRT) guidelines or an agreed upon repair time standard.
- 3) The Contractor is required to reimburse Omnitrans at an hourly shop labor rate based on Omnitrans' current labor cost accounting system. This labor rate is \$30.00 per hour based on current hourly pay rates plus benefits. This rate is reviewed, and changed if necessary, in February or March of each year and the Contractor will be notified.
- 4) The Contractor shall be assessed the cost of shipping or a 15% handling charge for product returns.

h. Systemic Defects

During the warranty period, when repairs or modifications necessitated by defective design, material, or workmanship occur to an extent in excess of 20% of the product (used for the same function in the same system or subsystem), the Contractor shall promptly furnish all necessary labor and material to effect such repairs and modifications for every product delivered under the contract, according to the terms and conditions outlined, including systems or subsystems in which the product has not yet failed.

i. Administration

Warranty claims, and other warranty issues shall be administered, coordinated and resolved with the Omnitrans' Warranty Coordinator and a Contractor's assigned representative.

- 1) For warranty repair claims or service requests which are determined by the Contractor not to be under warranty, the Contractor must forward a written failure analysis report and an itemized quote to Omnitrans' Warranty Coordinator and obtain authorization before proceeding with the repair.
- 2) The Contractor shall be able to electronically communicate on warranty coverage, registrations, claims, service requests and bulletins/alerts.
- 3) The Contractor is required to reference the Omnitrans warranty purchase order and warranty claim number when shipping warranty replacement products.
- 4) The Contractor is required to properly identify warranty returns or replacement products with a bill of lading.

7. BUS SIGN EXAMPLES

Included are samples of the specified bus stop signs.

BUS STOP ROUTE DESTINATION SIGNS (FRONT)



BUS STOP ROUTE DESTINATION SIGNS (REAR)



AUXILIARY ROUTE DESTINATION SIGN



NEXTRIP BUS STOP SIGN



End Scope of Work

ATTACHMENT B - PRICING

MKP17-73, BUS STOP SIGNS

Base Years 1-3

Item Num	Description	Unit of Measure	Unit Price
1	Bus Stop Route Destination Sign 22" x 11"	each	\$32.51
2	Bus Stop Auxiliary Destination Sign 9.62' x 4.5'	each	\$15.07
3	NexTrip Bus Stop Sign 9.75" x 6.5"	each	\$6.77
4	Variable Data Decals	each	\$0.02
6	Shipping / Delivery Costs	LOT	\$515.00

Option year pricing shall be determined using the change (increase or decrease) of Consumer Price Index (CPI).

**CURRENT CLIENT REFERENCES. MINIMUM OF FIVE (5) REQUIRED**

Submit this form with the BID/Proposal, with valid contact information, failure to do so is grounds for disqualification.

Company	image craft		
Address	3401 E. Broadway RD		
City, ST, Zip	Phoenix AZ 85040		
Phone Numbers/Email	602-305-4820 PRNEINFELDER@imcraft.com		
Contact Name/Title	Paul Rinefelder		
Type of Engagement	installations.		
Company	Community Hospital S.B.		
Address	1805 medical center DRIVE		
City, ST, Zip	San Bernardino, CA 92411		
Phone Numbers/Email	909 499-1407 dmartin@DignityHealth.org		
Contact Name/Title	Dwight martin		
Type of Engagement	signs, manufacturing, installations		
Company	St Bernadines medical center		
Address	2101 N. WATERMAN AVE.		
City, ST, Zip	San Bernardino, CA 92404		
Phone Numbers/Email	951 232-4025		
Contact Name/Title	Bud Rogers Bud.Rogers@DignityHealth.org		
Type of Engagement	signs, manufacturing & installations		
Company	Assured Fire Systems inc		
Address	844 Walnut Ave		
City, ST, Zip	Redlands, CA 92373		
Phone Numbers/Email	909 838-1855 assuredfiresystems@gmail.com		
Contact Name/Title	Howard Sukeruk		
Type of Engagement	signs.		
Company	Performance Team		
Address	11051 California St		
City, ST, Zip	Redlands, CA 92374		
Phone Numbers/Email	909 747-1359 Ariana.Lopez@performanceteam.net		
Contact Name/Title	Ariana Lopez		
Type of Engagement	signs, manufacturing & installation		
Bidder's/Proposer's Company Name	Here's Your Sign, Inc, dba Signs Now Redlands		
Legal Structure (corp/partner/proprietor)	Corporation		
Principle Office Address	404 E. Redlands Blvd.		
City, ST, Zip	Redlands, CA 92373		
Phone Number and E-Mail	909-792-5577 info@signsnowredlands.com		
Federal Employer Identification Number	81-3561928		
Title of Person Authorized to Sign	President		
Print Name of Person Authorized to Sign	Bradley Evans		
Date Signed and Authorized Signature	3/20/17		



NOT ON EXCLUDED PARTIES LIST SYSTEM (REQUIRED)

Submit this form with the BID, failure to do so is grounds for disqualification.

The Bidder certifies that it is NOT on the Excluded Parties List System of ineligible firms for federally financed and assisted construction, materials, equipment contracts or services.

Bidder's Company Name ~~Signs Now~~ Here's Your Sign, Inc., dba Signs Now of Redlands
Legal Structure (corp./partner/proprietor) Corporation
Principle Office Address 404 E. Redlands Blvd
City, ST, Zip Redlands, CA 92373
Phone Number 909-792-5577
Fax Number 909-792-7781
E-Mail info@signsnowredlands.com
Federal Employer Identification Number 81-35641928
Title of Person Authorized to Sign President
Print Name of Person Authorized to Sign Bradley Evans
Date Signed and Authorized Signature [Signature]



DECLARATION OF NON-COLLUSION (REQUIRED)

Submit this form with the BID, failure to do so is grounds for disqualification.

I hereby declare (or affirm) under penalty of perjury that:

1. I am the bidder (if the bidder is an individual), a partner in the bid (if the bidder is a partnership), or an officer or employee of the bidding corporation and have authority to sign on its behalf (if the bidder is a corporation);
2. The bidder has independently produced the attached bid(s) without collusion, agreement, understanding or planned common course of action, with any other source, that would limit independent bidding competition;
3. The contents of the bid(s) have not been communicated by the bidder and or its employees and or agents to any person not an employee and or agent of the bidder and or its surety, on any bond furnished with the bid, and will not be communicated to any such person prior to the official opening of the bid, and
4. I have fully informed myself regarding the accuracy of the statements made in this declaration.

Bidder's Company Name Here's Your Sign, Inc., dba Signs Now of Redlands
(corp./partnership/sole proprietor) Corporation
Principle Office Address 404 E. Redlands Blvd.
City, ST, Zip Redlands, CA 92373
Phone Number 909-792-5577
Fax Number 909-792-7781
E-mail Number info@signsnownowredlands.com
Federal Employer I.D. Number 61-3561928
Title of Person Authorized to Sign President
Print Name Authorized to Sign Bradley Evans
Authorized Signature [Signature]
Date Signed 3/20/2017



LIST OF SUBCONTRACTORS AND DBES (REQUIRED $> \frac{1}{2}$ OF 1% SHARE OF BID)

Submit this form with the BID/Proposal, failure to do so is grounds for disqualification.

One (1) form required of each bidder and proposed subcontractor having greater than $\frac{1}{2}$ of 1% share of the bid. Government Code § 4100 on, "Subletting and Subcontract Fair Practices Act".

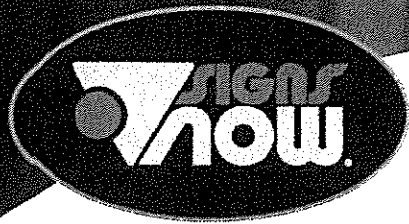
Company none
Address _____
City, ST, Zip _____
Phone Numbers/Email _____
Contact Name/Title _____
Type of Engagement _____
Type of work to be performed _____
Dollar value of participation _____ DBE qualified? Yes ☐ No ☐

Company _____
Address _____
City, ST, Zip _____
Phone Number _____
Contact Name/Title _____
Type of Engagement _____
Type of work to be performed _____
Dollar value of participation _____ DBE qualified? Yes ☐ No ☐

Company _____
Address _____
City, ST, Zip _____
Phone Number _____
Contact Name/Title _____
Type of Engagement _____
Type of work to be performed _____
Dollar value of participation _____ DBE qualified? Yes ☐ No ☐

Total DBE participation Dollars % of Total Contract

Bidder's/Proposer's Company Name Here's Your Sign, Inc., dba Signs Now at Redlands
Legal Structure (corp./partner/proprietor) corporation
Principle Office Address 404 E. Redlands Blvd
City, ST, Zip Redlands, CA 92373
Phone Number and E-Mail 909-792-5577 info@es-signs-now-redlands.com
Federal Employer Identification Number 51-3561928
Title of Person Authorized to Sign President
Print Name of Person Authorized to Sign Bradley Evans
Date Signed and Authorized Signature 3/20/2017
DUPLICATE THIS FORM AS NECESSARY TO COMPLETE LIST (SIGN LAST ONE)



design service solutions

Warranty Claim Procedure

Signs Now of Redlands warrants our aluminum signs against any defect due to faulty material or workmanship for life in the location it is originally installed. This warranty specifically does not cover normal fade, color change or paint fill. We will repair or replace without charge, providing it has been installed per the design and installation specifications provided at time of delivery. Purchaser is responsible for removal and reinstallation cost of said product.

Warranty is serviced solely by Signs Now of Redlands. Requests for warranty service must be made in writing and delivered by one of the following methods

Fax to 909-792-7781

Email to info@signsnowredlands.com

Mail to Signs Now of Redlands, 404 E. Redlands Blvd, Redlands, CA, 92373.

404 E. Redlands Blvd.
Redlands, California 92373
P (909)792-5577 | F (909)792-7781
info@signsnowredlands.com
www.signsnow.com/redlands



CONTRACT AGREEMENT

between

CONTRACTOR
World Oil Environmental Services
1300 S. Santa Fe Avenue
Compton, CA 90221

(hereinafter "CONTRACTOR")
Telephone:
Email:

And

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

CONTRACT DOCUMENTS

CONTRACT NO. MNT17-70

COOLANT SUPPLY

Contract Amount: \$ 206,550

OmniTrans Project Manager:

Name: Rick Barone
Title: Materials Manager
Telephone: (909) 379-7204
Email: rick.barone@omnitrans.org

Contract Administrator:

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



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ATTACHMENT A – SCOPE OF WORK

EXHIBIT 1 – CUMMINS ENGINE COOLANT SPECIFICATIONS

EXHIBIT 2 – JOHN DEERE ENGINE COOLANT SPECIFICATIONS

ATTACHMENT B – REGULATORY REQUIREMENTS

ATTACHMENT C - PRICING

ATTACHMENT D - FORMS

This Agreement is made and entered into as of this ____ day of _____, by and between Omnitrans (hereinafter referred to as "OMNITRANS") and World Oil Environmental Services (hereinafter referred to as "CONTRACTOR").

RECITALS

WHEREAS, OMNITRANS is a joint powers authority organized under Section 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 Two Hundred and Six Thousand Five Hundred Fifty Dollars (\$206,550), 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 N. Turner
Title: Contract Administrator

World Oil Environmental Services
1300 S. Santa Fe Avenue
Compton, CA 90221
Attn: Jessica Torres
Executive Administrator

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>
<u>Ken Chan</u>	<u>Account Manager</u>
<u>Mike Aven</u>	<u>Sales Manager</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

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.

CONTRACTOR shall not, without the express written consent of Omnitrans, either:

- a. Substitute any person, firm, or corporation as subcontractor in place of the subcontractors identified below; or
- b. Permit any subcontract to be assigned or transferred; or
- c. Allow work to be performed by anyone other than the original subcontractor listed below.

Subcontractor's Name and Address

Work to Be Performed

No subcontractors will be used.

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 or electronic 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 IFB-MNT17-70 and any and all of its Addenda, Appendices, Exhibits and Attachments; and (3) CONTRACTOR's bid dated May 10, 2017 and its Appendices, Exhibits and Attachments.

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

CONTRACTOR

Company name:

World Oil Environmental Services

P. Scott Graham
CEO/General Manager


Name: **Shane Caswell**
Title: **V.P. Operations**

Date

5/10/17

Date

Federal Tax I.D. No. **95-3675830**

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ATTACHMENT A – SCOPE OF WORK
MNT17-70
COOLANT SUPPLY SERVICES

I. PURPOSE:

Contractor shall supply coolant (anti-freeze) on an as-needed basis, no guarantee of usage, in bulk, with periodic deliveries in 55-gallon drums, and the pick-up and of waste coolant from Omnitrans' facilities in San Bernardino and Montclair, California.

II. SPECIFICATIONS:

Minimum Requirements:

1. Coolant must comply with Cummins Engineering Standard (CES) 14603 (Refer to Exhibit 1- Cummins Coolant Recommendations) and American Society for Testing and Materials (ASTM) D6210 specifications.
2. Coolant must be fully formulated ethylene glycol base, pre-mix at 50/50 ratio.
3. Coolant shall be able to protect against cylinder liner pitting and provide solid corrosion protection for aluminum, cast iron, copper, brass and solder.
4. Coolant shall be green, blue or yellow in color. Bidders must specify color in the comments section of the bid response.
5. Omnitrans requires lifetime coolant with service intervals at 150,000 miles.
6. Coolant must be compatible with Fleetguard ES Compleat or Cool-Guard.
7. Coolant is intended for the following Cummins Engines:
 - i. John Deere 8.1 Liter Cylinder Head CNG – Quantity (39)
 - ii. Cummins 8.3 Liter Cylinder Head CNG – Quantity (18)
 - iii. Cummins 8.9 Liter Cylinder Head CNG – Quantity (104)
 - iv. Cummins 8.9 Liter Cylinder Head CNG – Quantity (14)

III. DELIVERY:

1. Delivery quantities shall be based on the volume requirements of each location.
2. 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"= 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"= 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.)

ATTACHMENT A – SCOPE OF WORK
MNT17-70
COOLANT SUPPLY SERVICES

- ii. 4748 Arrow Hwy, Montclair, CA 91763
 - a. Shop:

“New Coolant” = 1,000 gallons (Underground storage tank and may be filled to 90%)
 - b. Fuel Island:

“New Coolant” = 150 gallon above ground tank
“Used Coolant” = 500 gallons (Underground storage tank may be filled to 90%).
- 3. 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.
- 4. 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 attached Exhibit All coolant supplied by the Contractor shall be equal in every respect to the sample approved by Omnitrans.
- 3. The Contractor shall submit with the bid, certification that no engine warranties shall be voided by use of the awarded coolants.

ATTACHMENT A – SCOPE OF WORK
MNT17-70
COOLANT SUPPLY SERVICES

VI. OMNITRANS RESPONSIBILITY:

Omnitrans will be responsible for maintaining the existing coolant storage tanks.

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 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.

ATTACHMENT A – SCOPE OF WORK
MNT17-70
COOLANT SUPPLY SERVICES

- 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 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. 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.
- 2. 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.
- 3. 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. Adjustments, credits, or refunds shall be completed by the Contractor within thirty (30) days of notification of the transmission part failure. Refunds shall be

ATTACHMENT A – SCOPE OF WORK
MNT17-70
COOLANT SUPPLY SERVICES

made by check or account credit, payable to Omnitrans, 1700 W. Fifth Street, San Bernardino, CA 92411-2401.

4. 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.

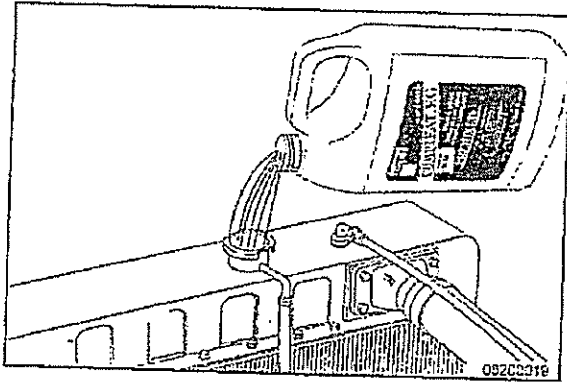
IX. EXHIBITS

By this reference, the following exhibits are incorporated herein:

Exhibit 1 – Cummins Engine Coolant Specifications

Exhibit 2 – John Deere Engine Coolant Specifications

End of Attachment A – Scope of Work



Coolant Recommendations and Specifications

Fully Formulated Coolant/Antifreeze

Cummins Inc. recommends the use of fully formulated antifreeze/coolant meeting Cummins® Engineering Standard (C.E.S.) 14603. For further details and discussion of coolant for Cummins® engines, refer to Coolant Requirements and Maintenance, Bulletin 3666132.

Cummins Inc. recommends using either a 50/50 mixture of good-quality water and fully formulated antifreeze, or fully formulated coolant when filling the cooling system.

Good-quality water is important for cooling system performance. Excessive levels of calcium and magnesium contribute to scaling problems, and excessive levels of chlorides and sulfates cause cooling system corrosion.

Water Quality	
Calcium Magnesium (hardness)	Maximum 170 ppm as (CaCO ₃ + MgCO ₃)
Chloride	40 ppm as (Cl)
Sulfur	100 ppm as (SO ₄)

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Section V - Maintenance Specifications

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Cummins Inc. recommends Cummins Filtration™ antifreeze coolants including Compleat ES™ containing DCA4 Plus, Fleetcool™ EX containing DCA2 Plus, and ES Optimax™ Organic Acid Technology (OAT), which meet the requirements of Cummins® Engineering Standard 14603. However, Cummins Inc., Chevron Corporation and Shell have agreed that Chevron Texaco™, Shell Rotella™ and their private label counterpart Extended Life OAT coolants, which do not meet the elastomer compatibility section of Cummins® Engineering Standard 14603, are acceptable for extended service interval use, assuming the initial coolant fill requirements were met from the vehicle's original equipment manufacturer (OEM).

MidRange, Heavy Duty and High Horsepower engine overhauls, or repairs involving the replacement of the following components, using this Extended Life OAT coolant, must discard the coolant and replace it with new coolant.

- Rocker lever housing gasket
- Lubricating oil cooler housing gasket
- Cylinder head gasket
- Thermostat housing gasket

If the replacement coolant is Chevron Texaco™, Shell Rotella™ or their private label counterpart Extended Life OAT coolants, which do not meet the elastomer compatibility section of Cummins® Engineering Standard 14603, the coolant must be treated by adding 0.24 liters [8 oz] of liquid silicate fluid for every 45.5 liters [12 gal] of total coolant system volume. It is critical to not overtrear the coolant with silicate fluid.

To obtain order forms or ask questions relative to ordering the silicate fluid, contact:

- Silicate Fluid Order Program
- P.O. Box 27388
- Houston, TX
- 77277-7388
- Phone: 800-346-9041
- Fax: 800-876-5317

For further details and discussion of engine coolant for Cummins® engines, refer to Cummins® Coolant Requirements and Maintenance, Bulletin 3666132.

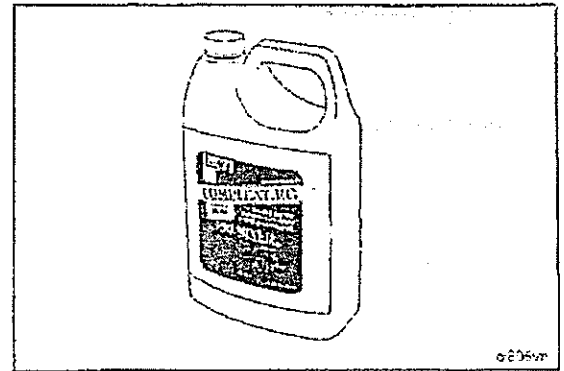
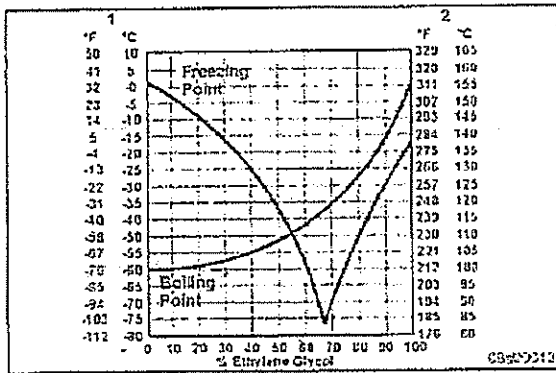


EXHIBIT 1 - CUMMINS COOLANT SPECIFICATIONS

Coolant Recommendations and Specifications
Page V-18

Section V - Maintenance Specifications

Section V -



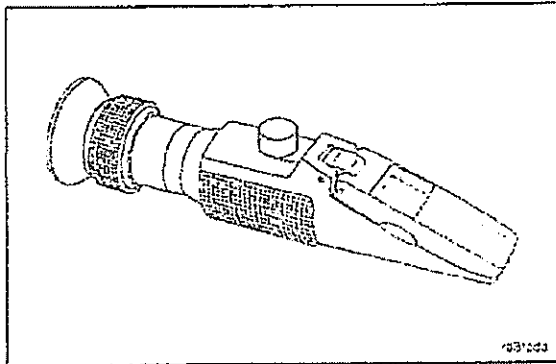
Fully formulated antifreeze must be mixed with good quality water at a 50/50 ratio (40- to 60-percent working range). A 50/50 mixture of antifreeze and water gives a -36°C [-33°F] freezing point and a 108°C [226°F] boiling point, which is adequate for locations in North America. The actual lowest freezing point of ethylene glycol antifreeze is at 68 percent. Using higher concentrations of antifreeze will raise the freezing point of the solution and increase the possibility of a silica gel problem.

Legend

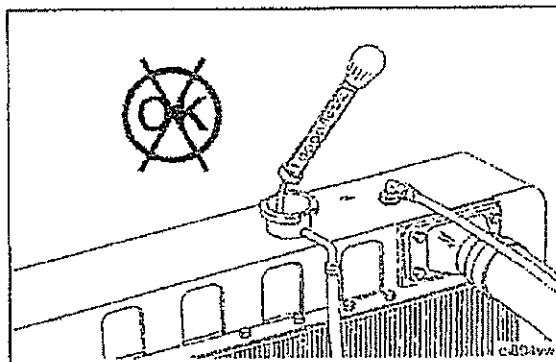
- 1 Freezing Point Temperature Scale
- 2 Boiling Point Temperature Scale

Cooling

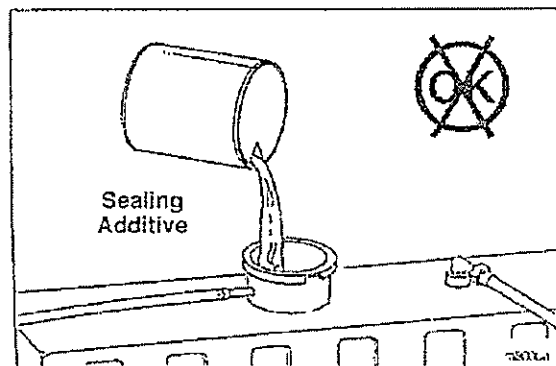
Do not use
soluble oil
Corrosion
Damage
Damage



A refractometer must be used to measure the freezing point of the coolant accurately. Use Cummins Filtration refractometer, Part Number CC2800 or CC2806.



Do not use a floating ball hydrometer. Floating ball hydrometers can give incorrect readings.



Cooling System Sealing Additives

Do not use sealing additives in the cooling system. The use of sealing additives will:

- Build up in coolant low-flow areas
- Plug the radiator and oil cooler
- Possibly damage the water pump seal.

Engine Coolant Specifications

Contact your CNG engine servicing dealer to determine what the cooling system of this engine is filled with and the winter freeze protection level.

Coolant solutions of quality water, ethylene glycol concentrate (antifreeze), and supplemental coolant additives (SCAs) **MUST** be used year-round to protect against freezing, boil-over, liner erosion or pitting, and to provide a stable, noncorrosive environment for seals, hoses, and metal engine parts.

Water Quality

Water quality is important to the performance of the cooling system. Distilled, deionized, or demineralized water is recommended for mixing with ethylene glycol base engine coolant concentrate. Mineral (hard/tap) water should **NEVER** be put in a cooling system unless first tested. All water used in the cooling system should meet the following minimum specifications for quality:

Water Quality Specifications

	Parts Per Million	Grains Per U.S. Gallon
Chlorides (maximum)	40	2.5
Sulfates (maximum)	100	5.9
Total Dissolved Solids (maximum)	340	20
Total Hardness (maximum)	170	10

pH Level...5.5-9.0

Ethylene Glycol Concentrate (Antifreeze)

IMPORTANT: DO NOT use ethylene glycol concentrate containing sealer or stop-leak additives.

The use of John Deere coolant products, as outlined previously, is **strongly recommended**.

If John Deere coolant products are not used, other low silicate ethylene glycol base coolants for heavy-duty engines may be used when mixed with quality water and supplemental coolant additives (SCAs), if they meet the following specifications:

- ASTM D4985 (coolant concentrate) in a 40% to 60% mixture of concentrate with quality water.

Coolants meeting these specifications require addition of supplemental coolant additives (SCAs), formulated for heavy-duty engines, for protection against corrosion and cylinder liner erosion and pitting.

OURGP12,0000105 -19-27APR05-1/3

IMPORTANT: Never use automotive-type coolants (such as those meeting ASTM D3306 only). These coolants do not contain the correct additives to protect heavy-duty engines. They often contain

NOTE: John Deere COOL-GARD™ Prediluted and John Deere COOL-GARD™ Concentrate contain supplemental coolant additives (SCAs). However, as the coolant solution loses its effectiveness

EXHIBIT 2 - JOHN DEERE ENGINE COOLANT SPECIFICATIONS

a high concentration of silicates and may damage the engine or cooling system.

over time, additional additives will be needed.

Supplemental Coolant Additives (SCAs)

IMPORTANT: DO NOT over-inhibit antifreeze solutions, as this can cause silicate-dropout. When this happens, a gel-type deposit is created which retards heat transfer and coolant flow, causing engine to overheat.

Operating without proper coolant additive will result in increased corrosion, cylinder liner erosion and pitting, and other damage to the engine and cooling system. A simple mixture of ethylene glycol and water WILL NOT give adequate protection. However, the use of supplemental coolant additives will reduce the number of vapor bubbles in the coolant and help form a protective film on cylinder liner surfaces. This film acts as a barrier against the harmful effects of collapsing vapor bubbles.

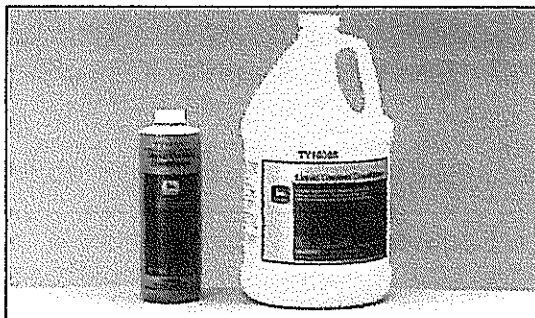
COOL-GARD is a trademark of Deere & Company

OURGP12,0000105 -19-27APR05-2/3

John Deere Liquid Coolant Conditioner is recommended as a supplemental coolant additive in John Deere engines.

IMPORTANT: Check inhibitors between drain intervals. Replenish inhibitors by the addition of a supplemental coolant additive as necessary.

Additives eventually lose their effectiveness and must be recharged with additional supplemental coolant additives available in the form of liquid coolant conditioner. Check school buses every 12 months/12,500 miles or refuse trucks/transit buses every 12 months/12,500 miles. See TESTING ENGINE COOLANT in this Section and REPLENISHING SUPPLEMENTAL COOLANT ADDITIVES (SCAs) BETWEEN COOLANT CHANGES in Lubrication & Maint./12 Months/25,000 Miles Section.



John Deere Liquid Coolant Conditioner

OURGP12,0000105 -19-27APR05-3/3

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.

- D. 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 \$150,000 and to contracts over \$150,000 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 agency's overall goal for DBE participation is 3.3%.
- 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>

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.

RR-29

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

MNT17-70

COOLANT SUPPLY SERVICES

[illegible]


BUY AMERICA CERTIFICATE

*Complete and submit this form with BID/PROPOSAL for solicitations requiring
Steel, Iron and Manufactured Products and/or for Rolling Stock
Failure to do so is grounds for deeming the bid/proposal as non-responsive.*

One (1) form required of each bidder/proposer

The Buy America requirement is set forth in 49 U.S.C Section 5323(j) Fixing America's Surface Transportation Act (FAST) and Section and 49 CFT 661, as amended, and by any guidance issued by Federal Transit Administration (FTA).

1. ☒ The bidder/proposer hereby certifies that it will comply with the requirements of Buy America and will ensure that the lower tier contractors and subcontractors will also comply with the requirements as referenced.
2. ☐ The bidder/proposer hereby certifies that it cannot comply with the requirements as referenced, but may qualify for an exception to the requirement consistent with 49 U.S.C. 5323(j)(2)(C), and the applicable regulations in 49 CFT 661.7. Explain below.
3. ☐ The bidder/proposer hereby certifies that submitted bid/proposal is \$150,000 or less, no certification is necessary.

Company Name	World Oil Environmental Services
Principal Office Address	1300 S. Santa Fe Avenue
City, ST, Zip	Compton, CA 90221
Title of Person Authorized to Bind Firm	V.P. Operations
Print Name	Shane Caswell
Date Signed and Authorized Signature	 5/10/17

(attach additional sheets as necessary to fully explain any exceptions)

Exceptions as referenced in check box number 2:

Revised 11/4/2016



WARRANTY CLAIM PROCEDURE (REQUIRED)

Submit this form with the BID, failure to do so is grounds for disqualification.

Please provide an explanation of the Warranty Claim Procedure for exchange, replacement and reimbursement of repair costs. You may use the space below to explain or you may attach a copy of written procedures to this packet. Any attachment must be clearly marked as "Warranty Claim Procedure" to be considered responsive.

See attached Warranty Claim Procedure

WARRANTY CLAIM PROCEDURE – OmniTrans

Trinity Fully Formulated Heavy Duty Antifreeze/Coolant Limited Warranty

World Oil Environmental Services ("WOES") provides the purchaser ("You") a limited warranty that the Trinity Fully Formulated Heavy Duty Antifreeze/Coolant (the "Product") will be free from defects in material and workmanship for a period that expires one (1) year from the date of sale of the Product to You, provided that You are the original end-user purchaser of the Product and that your purchase was made from a supplier authorized by WOES. Transfer or resale of the Product will automatically terminate warranty coverage with respect to the Product. This limited warranty is not transferable to any third party, including but not limited to any subsequent purchaser or owner of the Product. This limited warranty is applicable only to end users in the United States and Puerto Rico. This limited warranty is void unless: 1) the engine or equipment used with the Product is operated within the limits of speed, load, and temperature and as recommended in the TMC RP-329 specifications for conventional pre-charged antifreeze product containing Nitrite; and 2) the engine and equipment used with the Product are subject to a regular, scheduled and documented maintenance and testing protocol fulfilling the manufacturer's recommended service cycle.

WOES SPECIFICALLY DISCLAIMS LIABILITY FOR ANY AND ALL DIRECT, INDIRECT, SPECIAL, GENERAL, PUNITIVE, EXEMPLARY, AGGRAVATED, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER FORSEEABLE OR UNFORSEEABLE, OF ANY KIND WHATSOEVER, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, UNANTICIPATED BENEFITS OR REVENUE OR ANTICIPATED PROFITS. REPLACEMENT OF A DEFECTIVE PRODUCT OR REFUND OF THE PURCHASE PRICE RELATING TO A DEFECTIVE PRODUCT ARE YOUR SOLE AND EXCLUSIVE REMEDIES FOR BREACH OF THE LIMITED WARRANTY, AND SUBJECT TO THIS WARRANTY, THE PRODUCTS ARE APPROVED AND ACCEPTED BY YOU "AS IS". WOES MAKES NO OTHER WARRANTIES, REPRESENTATIONS OR CONDITIONS OF ANY KIND, ORAL OR WRITTEN, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE PRODUCT, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.



RESTRICTIONS ON LOBBYING (REQUIRED >\$100,000)

Submit this form before final contract award, failure to do so is grounds for disqualification.

One form required of bidder and subcontractor having greater than a \$100,000 share of the bid. 31 U.S.C., § 1352 and U.S. DOT regulations on "New Restrictions on Lobbying," 49 C.F.R. Part 20.

Lobbying requirements apply to Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operation Service Contract/Turnkey contracts.

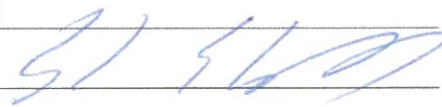
(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all tiers shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, as signed below, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Bidder's Company Name	World Oil Environmental Services
Legal Structure (corp./partner/proprietor)	Corporation
Select One	<input checked="" type="checkbox"/> Prime or <input type="checkbox"/> Subcontractor (submit after award)
Principle Office Address	1300 S. Santa Fe Avenue
City, ST, Zip	Compton, CA 90221
Phone Number	310/886-3400
Fax Number	310/537-5697
E-Mail	jtorres@worldoilcorp.com
Federal Employer Identification Number	95-3675830
Title of Person Authorized to Sign	V.P. Operations
Print Name of Person Authorized to Sign	Shane Caswell
Date Signed and Authorized Signature	5/10/17 



PROPOSED DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

*This form must be submitted with the BID/Proposal,
to have it considered during BID/Proposal evaluation.*

The bidder/proposer intends to utilize the following DBE contractors on this project.

Signature of participating DBE is confirmation of willingness to participate on this project.

Company	NONE
Address	
City, ST, Zip	
Phone Number	
Email	
Contact Name	
Type of work to be performed	
Dollar value of participation	
Signature of participating DBE	
Company	
Address	
City, ST, Zip	
Phone Number	
Email	
Contact Name	
Type of work to be performed	
Dollar value of participation	
Signature of participating DBE	
Company	
Address	
City, ST, Zip	
Phone Number	
Email	
Contact Name	
Type of work to be performed	
Dollar value of participation	
Signature of participating DBE	
Company	
Address	
City, ST, Zip	
Phone Number	
Email	
Contact Name	
Type of work to be performed	
Dollar value of participation	
Signature of participating DBE	

(DUPLICATE THIS FORM AS REQUIRED)



NOT ON EXCLUDED PARTIES LIST SYSTEM (REQUIRED)

Submit this form with the BID, failure to do so is grounds for disqualification.

The Bidder certifies that it is NOT on the Excluded Parties List System of ineligible firms for federally financed and assisted construction, materials, equipment contracts or services.

Bidder's Company Name	World Oil Environmental Services
Legal Structure (corp./partner/proprietor)	Corporation
Principle Office Address	1300 S. Santa Fe Avenue
City, ST, Zip	Compton, CA 90221
Phone Number	310/886-3400
Fax Number	310/537-5697
E-Mail	jtorres@worldoilcorp.com
Federal Employer Identification Number	95-3675830
Title of Person Authorized to Sign	V.P. Operations
Print Name of Person Authorized to Sign	Shane Caswell
Date Signed and Authorized Signature	5/10/17 



LIST OF SUBCONTRACTORS AND DBES (REQUIRED >½ OF 1% SHARE OF BID)

Submit this form with the BID/Proposal, failure to do so is grounds for disqualification.

One (1) form required of each bidder and proposed subcontractor having greater than ½ of 1% share of the bid. Government Code § 4100 on, "Subletting and Subcontract Fair Practices Act".

Company **NONE**
Address _____
City, ST, Zip _____
Phone Numbers/Email _____
Contact Name/Title _____
Type of Engagement _____
Type of work to be performed _____
Dollar value of participation _____ DBE qualified? Yes ☐ No ☐

Company _____
Address _____
City, ST, Zip _____
Phone Number _____
Contact Name/Title _____
Type of Engagement _____
Type of work to be performed _____
Dollar value of participation _____ DBE qualified? Yes ☐ No ☐

Company _____
Address _____
City, ST, Zip _____
Phone Number _____
Contact Name/Title _____
Type of Engagement _____
Type of work to be performed _____
Dollar value of participation _____ DBE qualified? Yes ☐ No ☐

Total DBE participation Dollars % of Total Contract

Bidder's/Proposer's Company Name **World Oil Environmental Services**
Legal Structure (corp./partner/proprietor) **Corporation**
Principle Office Address **1300 S. Santa Fe Avenue**
City, ST, Zip **Compton, CA 90221**
Phone Number and E-Mail **310/886-3400 / jtorres@worldoilcorp.com**
Federal Employer Identification Number **95-3675830**
Title of Person Authorized to Sign **V.P. Operations**
Print Name of Person Authorized to Sign **Shane Caswell**
Date Signed and Authorized Signature **5/10/17**
DUPLICATE THIS FORM AS NECESSARY TO COMPLETE LIST (SIGN LAST ONE)



OMNITRANS
IRAN CONTRACTING ACT CERTIFICATION
(Public Contract Code Section 2200 *et seq.*)

As required by California Public Contract Code Section 2204, the Contractor certifies subject to penalty for perjury that the option checked below relating to the Contractor's status in regard to the Iran Contracting Act of 2010 (Public Contract Code Section 2200 *et seq.*) is true and correct:

- ☒ The Contractor is not:
- (i) identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203; or
 - (ii) a financial institution that extends, for 45 days or more, credit in the amount of \$20,000,000 or more to any other person or entity identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203, if that person or entity uses or will use the credit to provide goods or services in the energy sector in Iran.
- ☐ Omnitrans has exempted the Contractor from the requirements of the Iran Contracting Act of 2010 after making a public finding that, absent the exemption, Omnitrans will be unable to obtain the goods and/or services to be provided pursuant to the Contract.
- ☐ The amount of the Contract payable to the Contractor for the Project does not exceed \$1,000,000.

Signed 

Titled **V.P. Operations**

Firm **World Oil Environmental Services**

Date **5/10/17**

Note: In accordance with Public Contract Code Section 2205, false certification of this form shall be reported to the California Attorney General and may result in civil penalties equal to the greater of \$250,000 or twice the Contract amount, termination of the Contract and/or ineligibility to bid on contracts for three years.



DECLARATION OF NON-COLLUSION (REQUIRED)

Submit this form with the BID, failure to do so is grounds for disqualification.

I hereby declare (or affirm) under penalty of perjury that:

1. I am the bidder (if the bidder is an individual), a partner in the bid (if the bidder is a partnership), or an officer or employee of the bidding corporation and have authority to sign on its behalf (if the bidder is a corporation);
2. The bidder has independently produced the attached bid(s) without collusion, agreement, understanding or planned common course of action, with any other source, that would limit independent bidding competition;
3. The contents of the bid(s) have not been communicated by the bidder and or its employees and or agents to any person not an employee and or agent of the bidder and or its surety, on any bond furnished with the bid, and will not be communicated to any such person prior to the official opening of the bid, and
4. I have fully informed myself regarding the accuracy of the statements made in this declaration.

Bidder's Company Name **World Oil Environmental Services**
(corp./partnership/sole proprietor) **Corporation**
Principle Office Address **1300 S. Santa Fe Avenue**
City, ST, Zip **Compton, CA 90221**
Phone Number **310/886-3400**
Fax Number **310/537-5697**
E-mail Number **jtorres@worldoilcorp.com**
Federal Employer I.D. Number **95-3675830**
Title of Person Authorized to Sign **V.P. Operations**
Print Name Authorized to Sign **Shane Caswell**
Authorized Signature 
Date Signed **5/10/17**



**DEBARMENT, SUSPENSION, & OTHER RESPONSIBILITY MATTERS
(REQUIRED >\$25,000)**

Submit this form with BID, failure to do so is grounds for disqualification.

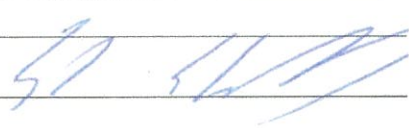
One (1) form required of each bidder and subcontractor having greater than a \$25,000 share of the bid. U.S. Code, Title 31, § 6101 note and U.S. DOT regulations on "Debarment and Suspension," 49 C.F.R. Part 29.

The Participant (the bidder and potential contractor or potential subcontractor for a third party contract) certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a Federal department or agency;
2. Have not within a three-year period preceding this bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/bid had one or more public transactions (Federal, State, or local) terminated for cause or default.

An explanation must be attached to this certification regarding any exception(s).

The Primary Participant certifies that it has authority under State and local laws to comply with the subject assurances, the truthfulness and accuracy of the contents of this certification, any attached explanation submitted herewith, understands the applicability of 31 U.S.C. Sections 3801 *Et. Seq.* and that this certification has been legally made.

Bidder's Company Name	World Oil Environmental Services
Legal Structure (corp./partner/proprietor)	Corporation
Select One	<input checked="" type="checkbox"/> Prime or <input type="checkbox"/> Subcontractor (submit after award)
Principle Office Address	1300 S. Santa Fe Avenue
City, ST, Zip	Compton, CA 90221
Phone Number	310/886-3400
Fax Number	310/537-5697
E-Mail	jtorres@worldoilcorp.com
Federal Employer Identification Number	95-3675830
Title of Person Authorized to Sign	V.P. Operations
Print Name of Person Authorized to Sign	Shane Caswell
Date Signed and Authorized Signature	5/10/17 



CURRENT CLIENT REFERENCES. MINIMUM OF FIVE (5) REQUIRED

Submit this form with the BID/Proposal, with valid contact information, failure to do so is grounds for disqualification.

Company **LAMTA**
Address **1 Gateway Plaza**
City, ST, Zip **Los Angeles, CA 90012**
Phone Numbers/Email **213-923-1018 / allent@metro.net**
Contact Name/Title **Tanya Allen - Buyer**
Type of Engagement **Antifreeze Contract**

Company **Orange County Fire Authority**
Address **1 Fire Authority Road, Bldg. C**
City, ST, Zip **Irvine, CA 92602**
Phone Numbers/Email **714-351-0652**
Contact Name/Title **Frank Gresenti - Maintenance Group**
Type of Engagement **Antifreeze Recycling Services**

Company **UPS**
Address **8475 Pardee Drive**
City, ST, Zip **Oakland, CA 94621**
Phone Numbers/Email **310-636-2544 / slavery@ups.com**
Contact Name/Title **Scott Lavery - VP Fleet Maintenance**
Type of Engagement **Waste Mgmt. & Antifreeze Program**

Company **LA Unified School District**
Address
City, ST, Zip **Los Angeles, CA**
Phone Numbers/Email **213-580-2985 / frank.klein@lausd.net**
Contact Name/Title **Frank Klein / Fleet Technical Specialist**
Type of Engagement **Recycled Antifreeze Program**

Company **Broad Base Jiffy Lube Group**
Address **730 S. Beckman Road**
City, ST, Zip **Lodi, CA 95240**
Phone Numbers/Email **916-375-1155 / DWF5064@aol.com**
Contact Name/Title **Don Fowler / President**
Type of Engagement **Antifreeze Services and Waste Mgmt.**

Bidder's/Proposer's Company Name **World Oil Environmental Services**
Legal Structure (corp./partner/proprietor) **Corporation**
Principle Office Address **1300 S. Santa Fe Avenue**
City, ST, Zip **Compton, CA 90221**
Phone Number and E-Mail **310/886-3400, jtorres@worldoilcorp.com**
Federal Employer Identification Number **95-3675830**
Title of Person Authorized to Sign **V.P. Operations**
Print Name of Person Authorized to Sign **Shane Caswell**
Date Signed and Authorized Signature **5/10/17**

Rev08172016



CONTRACT AGREEMENT

between

CONTRACTOR

DT Global, Inc.
13 Racing Wind
Irvine, CA 92614

(hereinafter "CONTRACTOR")

Telephone: 949-466-8731

Email: apro247@gmail.com

And

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

CONTRACT DOCUMENTS

CONTRACT NO. MKP17-79A

PROMOTIONAL ITEMS

Contract Amount: \$ 80,000

Omnitrans Project Manager:

Name: Nicole Ramos

Title: Marketing Manager

Telephone: (909) 379-7155

Email: Nicole.ramos@omnitrans.org

Contract Administrator:

Name: Krystal Turner

Title: Contract Administrator

Telephone: (909) 379-7202

Email: krystal.turner@omnitrans.org



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ATTACHMENT A – SCOPE OF WORK

ATTACHMENT B – PRICING

ATTACHMENT C - FORMS

This Agreement is made and entered into as of this ____ day of _____, by and between Omnitrans (hereinafter referred to as "OMNITRANS") and DT Global, Inc. _____, (hereinafter referred to as "CONTRACTOR").

RECITALS

WHEREAS, OMNITRANS is a joint powers authority organized under Section 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 Eighty Thousand Dollars Dollars (\$ 80,000 _____), 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
Title: Contract Administrator

To CONTRACTOR:

DT Global, Inc.
8381 Katella Ave., Suite G
Stanton, CA 90680
Ann Provencio
Project Manager

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: Nicole Ramos, Marketing 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>
<u>Ann Provencio</u>	<u>Project Manager</u>

Jaime Garcia	Accounts Payable/Receivable

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.

CONTRACTOR shall not, without the express written consent of Omnitrans, either:

- a. Substitute any person, firm, or corporation as subcontractor in place of the subcontractors identified below; or
- b. Permit any subcontract to be assigned or transferred; or
- c. Allow work to be performed by anyone other than the original subcontractor listed below.

Subcontractor's Name and Address	Work to Be Performed
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>

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 IFB-MKP17-79, and any and all of its Addenda, Appendices, Exhibits and Attachments; and (3) CONTRACTOR's proposal dated May 3, 2017 and its Appendices, Exhibits, Attachments and Best & Final Offer dated May 3, 2017.

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

CONTRACTOR

Company name: DT Global, Inc.

P. Scott Graham
CEO/General Manager

ann provencio

Name: Ann Provencio
Title: Project Manager

Date

5/3/17

Date

Federal Tax I.D. No. 47-5153363

J DP
CM____

ATTACHMENT A – SCOPE OF WORK

MKP17-79A

PROMOTIONAL ITEMS

1. BACKGROUND



Contractors shall work with Omnitrans to provide promotional material for dissemination within and outside of Omnitrans. Contractors must have a representative assigned to Omnitrans' account to ensure clear and timely communication.

2. OMNITRANS LOGOS



A. Customization with Omnitrans' logo include, but are not limited to: 1 color imprints, 2 color imprints, 3 color imprints, debossed logos, hot stamps, etching, laser engraving and PMS Color identification. Omnitrans must be provided with samples to verify PMS color scheme. The final product PMS colors must match Omnitrans' graphic standards otherwise a full refund must be received by the Agency or a new order placed based on Omnitrans' discretion.

B. PMS Color schemes are:

CMYK:

 55c 15m 100y 0k
 90c 65m 0y 0k

RGB

 131r 187g 65b
 32r 98g 176b

PMS

 369C
 660C

ATTACHMENT A – SCOPE OF WORK

MKP17-79A

PROMOTIONAL ITEMS

- C. Sample artwork of the Omnitrans logo:



- D. Pictures of prospective items for purchase are made as part of this Attachment, Exhibit 1. Pictures are provided as an example of the types of promotional materials that Omnitrans has previously required.

3. REQUIREMENTS

- A. Omnitrans requires the purchase of promotional merchandise for dissemination within and outside of the Agency. Items include, but are not limited to: tote bags, pens, twill caps, pencils, hand fans, rectangular key lights, folding umbrellas, first aid kits, buttons, drawstring bags, lapel pins, pass holders, mobile device holders, foldable flyers, hand sanitizer, sunscreen, coffee mugs, pins, neck wallets, koozies, and magnetic calendars. As standard practice, Omnitrans will solicit price quotations from all bench vendors for purchases.
- B. From time to time Omnitrans may require unique variations of items. These will be considered specialty items. Omnitrans reserves the right to add specialty items.

4. PERFORMANCE

- A. Catalogs

Contractors must provide copies of vendor's full line catalog, as needed. Online catalogs are required. The catalogs must include pictures, complete description and catalog pricing.

ATTACHMENT A – SCOPE OF WORK
MKP17-79A
PROMOTIONAL ITEMS

B. Samples

Contracted vendors must provide product samples before orders will be placed. The vendor must have knowledgeable representatives to provide product consulting when needed. Samples for custom order must be provided at time of discussion for selection of type of item.

C. Quality

Omnitrans requires a range of promotional products from business professional items to item giveaways for large events. Contractors will provide a large range of products, including creative, new releases. Item quality shall be commensurate with price, intended use, and with that available from other suppliers.

D. Ordering Process

1. Omnitrans reserves the right to place orders with other promotional item supply firms if Omnitrans determines it is necessary for specialty items. For regular promotional items, Omnitrans will select the lowest priced items, meeting the needs of Omnitrans.
2. Omnitrans will contact the vendor to review samples, determine the most suitable item and graphic requirements. Omnitrans will provide the artwork, approve the proof and place the order.
3. Service levels and turnaround times will also be considerations in selecting which contracted vendors to use.

E. Product Lead-Times

Items must be received by Omnitrans within twenty (20) business days or less after the order is placed. Any order requiring more than 20 business days to fulfill must get Omnitrans' approval at time of order. For specialty items, the vendor must inform Omnitrans of the lead-time during the process of item selection and before the item is ordered.

F. Delivery

1. Ordered items must be delivered to:
Omnitrans, 1700 West 5th Street, San Bernardino, CA 92411.
2. Boxes of items delivered shall not exceed 40 pounds.
3. Boxes of items shall include packing slips.

ATTACHMENT A - EXHIBIT 1
MKP17-79A
PROMOTIONAL MERCHANDISE

Omnitrans Promotional Item Sampling for Bidding

Please note that photos are for reference only, and need not be matched.

Twill Cap

Size: Standard size, lightweight, unstructured, medium profile

Color: Blue

Art: Full-color embroidery, provided electronically



Pens

Size: Standard-size retractable ballpoint pen, 1/2" x 1 3/4" imprint or similar

Color: Silver or white plus one contrast color (blue or green)

Art: One-color imprint, provided electronically



Pencils

Size: Standard size #2 lead pencil with pink rubber eraser, 3/4" x 3" imprint or similar

Color: Blue and/or green

Art: One-color imprint, provided electronically



Hand Fans

Size: 5 1/2" x 6" or similar, round

Color: Blue or green

Art: One-color imprint, provided electronically



Rectangular Key Light

Size: 7/8" x 2 3/8" x 3/16" or similar

Color: Blue or green

Art: One-color imprint, provided electronically



ATTACHMENT A - EXHIBIT 1
MKP17-79A
PROMOTIONAL MERCHANDISE

Hand Sanitizer

Size: 1/2 oz. 2-3/4" x 1-5/16"
Artwork Required



Sunscreen

Size: 1.9 oz. 4-1/2" x 1-5/8"
Artwork Required



Coffee Mugs

Size: 11 oz.
Artwork Required



Tote Bags

Size: 15" x 13"
Artwork Required

ATTACHMENT A - EXHIBIT 1
MKP17-79A
PROMOTIONAL MERCHANDISE



Pins
Size: 1.25" or smaller
Artwork Required



Neck Wallet
Size: 6-5/8" x 5
Artwork Required



Koozies
Size: 5-1/4" x 3-7/8"
Artwork Required



Magnetic Calendar
Size: 3" x 4-1/8"
Artwork Required



CURRENT CLIENT REFERENCES. MINIMUM OF FIVE (5) REQUIRED

Submit this form with the BID/Proposal, with valid contact information, failure to do so is grounds for disqualification.

Company SLCLA Inc.
Address 18730 Oxnard St, Suite 204
City, ST, Zip Tarzana, CA 91356
Phone Numbers/Email 818-445-0207 / rick@slcla.com
Contact Name/Title Rick Martin, Owner
Type of Engagement Printed tee shirts - estimated annual value \$250,000

Company SMLXL
Address 1125 E. Truslow
City, ST, Zip Fullerton, CA 92831
Phone Numbers/Email 213-804-4904 / mike@smlxsupply.com
Contact Name/Title Mike Mattox, Owner
Type of Engagement Printed tee shirts - estimated annual value \$350,000

Company Asia Vantage
Address 21 Malaga Place West
City, ST, Zip Manhattan Beach, CA 90266
Phone Numbers/Email 310-546-9549 / chip@asia-vantage.com
Contact Name/Title Chip Pusateri, Owner
Type of Engagement Printed tee shirts - estimated annual value \$300,000

Company Import Shirts
Address 13 Racing Wind
City, ST, Zip Irvine, CA 92614
Phone Numbers/Email 951-662-0010 / joe@importshirts.com
Contact Name/Title Joe Paez, Owner
Type of Engagement Printed tee shirts - estimated annual value \$200,000

Company County of San Diego Purchasing & Contracting
Address 5560 Overland Avenue, Suite 270
City, ST, Zip San Diego, CA 92123
Phone Numbers/Email 858-505-6899 / stephanie.wells@sdcounty.ca.gov
Contact Name/Title Stephanie Wells, MPA Analyst II
Type of Engagement 3 base year county-wide printed apparel contract with two 1 year options - contract just started late April 2017

Bidder's/Proposer's Company Name DT Global, Inc.
Legal Structure (corp./partner/proprietor) Corporation
Principle Office Address 8381 Katella Ave., Suite G
City, ST, Zip Stanton, CA 90680
Phone Number and E-Mail 949-466-8731 / apro247@gmail.com
Federal Employer Identification Number 47-5153363
Title of Person Authorized to Sign Project Manager
Print Name of Person Authorized to Sign Ann Provencio
Date Signed and Authorized Signature 5/3/17 ann provencio



WARRANTY CLAIM PROCEDURE (REQUIRED)

Submit this form with the BID, failure to do so is grounds for disqualification.

Please provide an explanation of the Warranty Claim Procedure for exchange, replacement and reimbursement of repair costs. You may use the space below to explain or you may attach a copy of written procedures to this packet. Any attachment must be clearly marked as "Warranty Claim Procedure" to be considered responsive.

attachment included in electronic proposal submission

DT Global, Inc. - Warranty and Returns

Glass & Ceramic: due to inherent properties, small imperfections may be evident on some pieces that do not diminish the effectiveness or appeal of the product and will be considered normal & acceptable quality. Variations in materials, firing temperature, glaze and ink pigments may result in variances in glaze, imprint color & appearance; which must be considered acceptable. Size and color variations within reasonable tolerances may occur within an order or from order to order. Glass & ceramic products are tested for food use and can be used in complete confidence. Foam products: Light foam colors tend to discolor in less time than darker colors. For best results, factory recommends using darker foam colors with lighter color imprints. Foam products may vary, within reasonable tolerances, in thickness or size and may vary within an order or from order to order. No returns or discounts will be allowed for discoloration or thickness of foam. Plastics: Igloo® products are known for their quality construction and materials. Due to circumstances beyond our control, features may change from order to order. All Igloo products are backed by Igloo's 5 Year Product Warranty against material and workmanship defects. Warranty replacements will be unimprinted. Sewn Products: Materials may have slight variances within an order or from order to order with regards to fabric dye lots (color), weight or size of finished product. Fabric care-For Poly-Cotton Twill & Cotton Duck, if washing is necessary, we recommend hand washing in cold water and line dry. DO NOT BLEACH. Tex-O-Leather, clear vinyl & other materials- wiping with soft cloth using warm water is recommended. Stainless Steel items with plastic liners: These items are NOT DISHWASHER SAFE. The use of dissimilar materials, stainless & plastic liner, may cause expansion & contraction if washed in dishwasher allowing water to become trapped between the walls of the mug. Home/Office and Leisure items are decorated using pad-printing processes. Molded plastic materials vary in color in the manufacturing process. Plastic accent colors may not be exact matches with ink colors used in the decoration process. Candles can be dangerous products and common sense should be used when burning them. Follow all directions on the warning labels. "Candle will be hot do not touch wax or flame. Keep burning candle within sight. Keep out of reach of children and pets. Never burn candle on or near anything that can catch fire. Discontinue use when 1/4" of wax remains." Wicks contain zinc core for stability and DO NOT contain any lead or lead by-products. In container candles room temperature changes may cause the wax to pull away from the container. This is normal and is not a manufacturing defect.

All claims must be filed within 30 days of shipment and must have return authorization number assigned by factory. Any returns without prior factory authorization will be refused. Random samples may not be returned for credit. Returns for credit or adjustment are subject to quality inspection by factory. Credit or adjustments will be allowed only for that part of the shipment found to be of unacceptable quality (as determined by the factory). Upon receipt product will be inspected and if found to be normal wear & tear, repair charges would be applicable to any repairs made.



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: NA

Contact Name: _____ Phone: _____

Project Award Date: _____ Original Contract Value: _____

Term of Contract: _____

Completely explain the circumstances of any contract terminated and/or option years not exercised

Project city/agency/other: _____

Contact Name: _____ Phone: _____

Project Award Date: _____ Original Contract Value: _____

Term of Contract: _____

Completely explain the circumstances of any contract terminated and/or option years not exercised

Project city/agency/other: _____

Contact Name: _____ Phone: _____

Project Award Date: _____ Original Contract Value: _____

Term of Contract: _____



Completely explain the circumstances of any contract terminated and/or option years not exercised

Name

Date

Title



RESTRICTIONS ON LOBBYING (REQUIRED >\$100,000)

Submit this form before final contract award, failure to do so is grounds for disqualification.

One form required of bidder and subcontractor having greater than a \$100,000 share of the bid. 31 U.S.C., § 1352 and U.S. DOT regulations on "New Restrictions on Lobbying," 49 C.F.R. Part 20.

Lobbying requirements apply to Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operation Service Contract/Turnkey contracts.

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all tiers shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, as signed below, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Bidder's Company Name	DT Global, Inc.
Legal Structure (corp./partner/proprietor)	Corporation
Select One	<input checked="" type="checkbox"/> Prime or <input type="checkbox"/> Subcontractor (submit after award)
Principle Office Address	8381 Katella Ave., Suite G
City, ST, Zip	Stanton, CA 90680
Phone Number	714-248-7900
Fax Number	714-398-8831
E-Mail	apro247@gmail.com
Federal Employer Identification Number	47-5153363
Title of Person Authorized to Sign	Project Manager
Print Name of Person Authorized to Sign	Ann Provencio
Date Signed and Authorized Signature	5/3/17 <i>ann provencio</i>



PROPOSED DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

*This form must be submitted with the BID/Proposal,
to have it considered during BID/Proposal evaluation.*

The bidder/proposer intends to utilize the following DBE contractors on this project.

Signature of participating DBE is confirmation of willingness to participate on this project.

Company	<u>NA</u>
Address	_____
City, ST, Zip	_____
Phone Number	_____
Email	_____
Contact Name	_____
Type of work to be performed	_____
Dollar value of participation	_____
<hr/>	
Signature of participating DBE	
<hr/>	
Company	_____
Address	_____
City, ST, Zip	_____
Phone Number	_____
Email	_____
Contact Name	_____
Type of work to be performed	_____
Dollar value of participation	_____
<hr/>	
Signature of participating DBE	
<hr/>	
Company	_____
Address	_____
City, ST, Zip	_____
Phone Number	_____
Email	_____
Contact Name	_____
Type of work to be performed	_____
Dollar value of participation	_____
<hr/>	
Signature of participating DBE	
<hr/>	
Company	_____
Address	_____
City, ST, Zip	_____
Phone Number	_____
Email	_____
Contact Name	_____
Type of work to be performed	_____
Dollar value of participation	_____
<hr/>	
Signature of participating DBE	
<hr/>	

(DUPLICATE THIS FORM AS REQUIRED)



NOT ON EXCLUDED PARTIES LIST SYSTEM (REQUIRED)

Submit this form with the BID, failure to do so is grounds for disqualification.

The Bidder certifies that it is NOT on the Excluded Parties List System of ineligible firms for federally financed and assisted construction, materials, equipment contracts or services.

Bidder's Company Name	DT Global, Inc.
Legal Structure (corp./partner/proprietor)	Corporation
Principle Office Address	8381 Katella Ave., Suite G
City, ST, Zip	Stanton, CA 90680
Phone Number	714-248-7900
Fax Number	714-398-8831
E-Mail	apro247@gmail.com
Federal Employer Identification Number	47-5153363
Title of Person Authorized to Sign	Project Manager
Print Name of Person Authorized to Sign	Ann Provencio
Date Signed and Authorized Signature	5/3/17 <i>ann provencio</i>



LIST OF SUBCONTRACTORS AND DBES (REQUIRED >½ OF 1% SHARE OF BID)

Submit this form with the BID/Proposal, failure to do so is grounds for disqualification.

One (1) form required of each bidder and proposed subcontractor having greater than ½ of 1% share of the bid. Government Code § 4100 on, "Subletting and Subcontract Fair Practices Act".

Company	NA		
Address			
City, ST, Zip			
Phone Numbers/Email			
Contact Name/Title			
Type of Engagement			
Type of work to be performed			
Dollar value of participation		DBE qualified?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Company			
Address			
City, ST, Zip			
Phone Number			
Contact Name/Title			
Type of Engagement			
Type of work to be performed			
Dollar value of participation		DBE qualified?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Company			
Address			
City, ST, Zip			
Phone Number			
Contact Name/Title			
Type of Engagement			
Type of work to be performed			
Dollar value of participation		DBE qualified?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Total DBE participation	Dollars	% of Total Contract	
Bidder's/Proposer's Company Name			
Legal Structure (corp./partner/proprietor)			
Principle Office Address			
City, ST, Zip			
Phone Number and E-Mail			
Federal Employer Identification Number			
Title of Person Authorized to Sign			
Print Name of Person Authorized to Sign			
Date Signed and Authorized Signature	5/2/17		

DUPLICATE THIS FORM AS NECESSARY TO COMPLETE LIST (SIGN LAST ONE)



DECLARATION OF NON-COLLUSION (REQUIRED)

Submit this form with the BID, failure to do so is grounds for disqualification.

I hereby declare (or affirm) under penalty of perjury that:

1. I am the bidder (if the bidder is an individual), a partner in the bid (if the bidder is a partnership), or an officer or employee of the bidding corporation and have authority to sign on its behalf (if the bidder is a corporation);
2. The bidder has independently produced the attached bid(s) without collusion, agreement, understanding or planned common course of action, with any other source, that would limit independent bidding competition;
3. The contents of the bid(s) have not been communicated by the bidder and or its employees and or agents to any person not an employee and or agent of the bidder and or its surety, on any bond furnished with the bid, and will not be communicated to any such person prior to the official opening of the bid, and
4. I have fully informed myself regarding the accuracy of the statements made in this declaration.

Bidder's Company Name	DT Global, Inc.
(corp./partnership/sole proprietor)	Corporation
Principle Office Address	8381 Katella Ave., Suite G
City, ST, Zip	Stanton, CA 90680
Phone Number	714-248-7900
Fax Number	714-398-8831
E-mail Number	apro247@gmail.com
Federal Employer I.D. Number	47-5153363
Title of Person Authorized to Sign	Project Manager
Print Name Authorized to Sign	Ann Provencio
Authorized Signature	<i>ann provencio</i>
Date Signed	5/3/17



**DEBARMENT, SUSPENSION, & OTHER RESPONSIBILITY MATTERS
(REQUIRED >\$25,000)**

Submit this form with BID, failure to do so is grounds for disqualification.

One (1) form required of each bidder and subcontractor having greater than a \$25,000 share of the bid. U.S. Code, Title 31, § 6101 note and U.S. DOT regulations on "Debarment and Suspension," 49 C.F.R. Part 29.

The Participant (the bidder and potential contractor or potential subcontractor for a third party contract) certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a Federal department or agency;
2. Have not within a three-year period preceding this bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/bid had one or more public transactions (Federal, State, or local) terminated for cause or default.

An explanation must be attached to this certification regarding any exception(s).

The Primary Participant certifies that it has authority under State and local laws to comply with the subject assurances, the truthfulness and accuracy of the contents of this certification, any attached explanation submitted herewith, understands the applicability of 31 U.S.C. Sections 3801 *Et. Seq.* and that this certification has been legally made.

Bidder's Company Name	DT Global, Inc.
Legal Structure (corp./partner/proprietor)	Corporation
Select One	<input checked="" type="checkbox"/> Prime or <input type="checkbox"/> Subcontractor (submit after award)
Principle Office Address	8381 Katella Ave., Suite G
City, ST, Zip	Stanton, CA 90680
Phone Number	714-248-7900
Fax Number	714-398-8831
E-Mail	apro247@gmail.com
Federal Employer Identification Number	47-5153363
Title of Person Authorized to Sign	Project Manager
Print Name of Person Authorized to Sign	Ann Provencio
Date Signed and Authorized Signature	5/3/17 <i>ann provencio</i>



CONTRACT AGREEMENT

between

CONTRACTOR
Empire Marketing
6391 E. Bixby Hill Road
Long Beach, CA 90815

CONTRACT DOCUMENTS

CONTRACT NO. MKP17-79B

PROMOTIONAL ITEMS

(hereinafter "CONTRACTOR")
Telephone: (562) 799-0503
Email: empireatyourservice@gmail.com

And

Contract Amount: \$80,000

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

Omnitrans Project Manager:
Name: Nicole Ramos
Title: Marketing Manager
Telephone: (909) 379-7155
Email: Nicole.ramos@omnitrans.org

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



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ATTACHMENT A – SCOPE OF WORK

ATTACHMENT B – PRICING

ATTACHMENT C - FORMS

This Agreement is made and entered into as of this ____ day of _____, by and between Omnitrans (hereinafter referred to as "OMNITRANS") and Empire Marketing, (hereinafter referred to as "CONTRACTOR").

RECITALS

WHEREAS, OMNITRANS is a joint powers authority organized under Section 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 Eighty Thousand Dollars (\$80,000), 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
Title: Contract Administrator

To CONTRACTOR:

Empire Marketing
6391 E. Bixby Hill Road
Long Beach, CA 90815
Attn: Dawn McKenna
Title: 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: Nicole Ramos, Marketing 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>
Dawn McKenna	President

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.

CONTRACTOR shall not, without the express written consent of Omnitrans, either:

- a. Substitute any person, firm, or corporation as subcontractor in place of the subcontractors identified below; or
- b. Permit any subcontract to be assigned or transferred; or
- c. Allow work to be performed by anyone other than the original subcontractor listed below.

Subcontractor's Name and Address	Work to Be Performed
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 IFB-MKP17-79, and any and all of its Addenda, Appendices, Exhibits and Attachments; and (3) CONTRACTOR's proposal dated April 20, 2017 and its Appendices, Exhibits, Attachments and Best & Final Offer dated April 20, 2017.

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

CONTRACTOR
Company name:

P. Scott Graham
CEO/General Manager

Name: Dawn McKenne
Title:

Date

4/17/17
Date

Federal Tax I.D. No.

I DP *sf*
CM

ATTACHMENT A – SCOPE OF WORK
MKP17-79B
PROMOTIONAL ITEMS

1. BACKGROUND



Contractors shall work with Omnitrans to provide promotional material for dissemination within and outside of Omnitrans. Contractors must have a representative assigned to Omnitrans' account to ensure clear and timely communication.

2. OMNITRANS LOGOS



A. Customization with Omnitrans' logo include, but are not limited to: 1 color imprints, 2 color imprints, 3 color imprints, debossed logos, hot stamps, etching, laser engraving and PMS Color identification. Omnitrans must be provided with samples to verify PMS color scheme. The final product PMS colors must match Omnitrans' graphic standards otherwise a full refund must be received by the Agency or a new order placed based on Omnitrans' discretion.

B. PMS Color schemes are:

CMYK:

	55c 15m 100y 0k
	90c 65m 0y 0k

RGB

	131r 187g 65b
	32r 98g 176b

PMS

	369C
	660C

ATTACHMENT A – SCOPE OF WORK

MKP17-79B

PROMOTIONAL ITEMS

- C. Sample artwork of the Omnitrans logo:



- D. Pictures of prospective items for purchase are made as part of this Attachment, Exhibit 1. Pictures are provided as an example of the types of promotional materials that Omnitrans has previously required.

3. REQUIREMENTS

- A. Omnitrans requires the purchase of promotional merchandise for dissemination within and outside of the Agency. Items include, but are not limited to: tote bags, pens, twill caps, pencils, hand fans, rectangular key lights, folding umbrellas, first aid kits, buttons, drawstring bags, lapel pins, pass holders, mobile device holders, foldable flyers, hand sanitizer, sunscreen, coffee mugs, pins, neck wallets, koozies, and magnetic calendars. As standard practice, Omnitrans will solicit price quotations from all bench vendors for purchases.
- B. From time to time Omnitrans may require unique variations of items. These will be considered specialty items. Omnitrans reserves the right to add specialty items.

4. PERFORMANCE

- A. Catalogs

Contractors must provide copies of vendor's full line catalog, as needed. Online catalogs are required. The catalogs must include pictures, complete description and catalog pricing.

ATTACHMENT A – SCOPE OF WORK

MKP17-79B

PROMOTIONAL ITEMS

B. Samples

Contracted vendors must provide product samples before orders will be placed. The vendor must have knowledgeable representatives to provide product consulting when needed. Samples for custom order must be provided at time of discussion for selection of type of item.

C. Quality

Omnitrans requires a range of promotional products from business professional items to item giveaways for large events. Contractors will provide a large range of products, including creative, new releases. Item quality shall be commensurate with price, intended use, and with that available from other suppliers.

D. Ordering Process

1. Omnitrans reserves the right to place orders with other promotional item supply firms if Omnitrans determines it is necessary for specialty items. For regular promotional items, Omnitrans will select the lowest priced items, meeting the needs of Omnitrans.
2. Omnitrans will contact the vendor to review samples, determine the most suitable item and graphic requirements. Omnitrans will provide the artwork, approve the proof and place the order.
3. Service levels and turnaround times will also be considerations in selecting which contracted vendors to use.

E. Product Lead-Times

Items must be received by Omnitrans within twenty (20) business days or less after the order is placed. Any order requiring more than 20 business days to fulfill must get Omnitrans' approval at time of order. For specialty items, the vendor must inform Omnitrans of the lead-time during the process of item selection and before the item is ordered.

F. Delivery

1. Ordered items must be delivered to:
Omnitrans, 1700 West 5th Street, San Bernardino, CA 92411.
2. Boxes of items delivered shall not exceed 40 pounds.
3. Boxes of items shall include packing slips.

ATTACHMENT A - EXHIBIT 1
MKP17-79B
PROMOTIONAL MERCHANDISE

Omnitrans Promotional Item Sampling for Bidding

Please note that photos are for reference only, and need not be matched.

Twill Cap

Size: Standard size, lightweight, unstructured, medium profile

Color: Blue

Art: Full-color embroidery, provided electronically



Pens

Size: Standard-size retractable ballpoint pen, 1/2" x 1 3/4" imprint or similar

Color: Silver or white plus one contrast color (blue or green)

Art: One-color imprint, provided electronically



Pencils

Size: Standard size #2 lead pencil with pink rubber eraser, 3/4" x 3" imprint or similar

Color: Blue and/or green

Art: One-color imprint, provided electronically



Hand Fans

Size: 5 1/2" x 6" or similar, round

Color: Blue or green

Art: One-color imprint, provided electronically



Rectangular Key Light

Size: 7/8" x 2 3/8" x 3/16" or similar

Color: Blue or green

Art: One-color imprint, provided electronically



ATTACHMENT A - EXHIBIT 1
MKP17-79B
PROMOTIONAL MERCHANDISE

Hand Sanitizer

Size: 1/2 oz. 2-3/4" x 1-5/16"
Artwork Required



Sunscreen

Size: 1.9 oz. 4-1/2" x 1-5/8"
Artwork Required



Coffee Mugs

Size: 11 oz.
Artwork Required



Tote Bags

Size: 15" x 13"
Artwork Required

ATTACHMENT A - EXHIBIT 1
MKP17-79B
PROMOTIONAL MERCHANDISE



Pins
Size: 1.25" or smaller
Artwork Required



Neck Wallet
Size: 6-5/8" x 5
Artwork Required



Koozies
Size: 5-1/4" x 3-7/8"
Artwork Required



Magnetic Calendar
Size: 3" x 4-1/8"
Artwork Required

ATTACHMENT B - PRICING					
MKP17-79B					
PROMOTIONAL ITEMS					
*Base Year 1-3					
Item Num	Description	Unit of Measure	Quantity	Unit Price	Line Total
1	Ballpoint Pens	EA	15000	\$0.22	\$3,300.00
2	#2 Pencils	EA	15000	\$0.12	\$1,800.00
3	Mini Hand Fans	EA	7500	\$0.26	\$1,950.00
4	Twill Caps	EA	5000	\$3.95	\$19,750.00
5	Drawstring Sportspack	EA	3750	\$0.90	\$3,375.00
6	Rectangular Key Light	EA	7500	\$0.47	\$3,525.00
7	Hand Sanitizer	EA	15000	\$0.35	\$5,250.00
8	Sunscreen	EA	15000	\$1.08	\$16,200.00
9	Coffee Mugs	EA	15000	\$1.20	\$18,000.00
10	Tote Bags	EA	15000	\$0.60	\$9,000.00
11	Pins	EA	15000	\$0.37	\$5,550.00
12	Neck Wallet	EA	15000	\$0.70	\$10,500.00
13	Koozies	EA	15000	\$0.37	\$5,550.00
14	Magnetic Calendar	EA	15000	\$0.38	\$5,700.00
15	Sales Tax @8.00%	LOT	1		\$8,756.00
				Subtotal	\$118,206.00
*All subsequent year pricing shall be determined each year using the chage (increase or decrease) of Consumer Price Index (CPI).					



CURRENT CLIENT REFERENCES. MINIMUM OF FIVE (5) REQUIRED

Submit this form with the BID Proposal, with valid contact information. failure to do so is grounds for

Disqualification

Company CHICAGO TITLE COMPANY

Address 560 East Hospitality Lane

City, ST, Zip San Bernardino, CA 92408

Phone Numbers/Email (909) 381-6792 CTCplanet.com

Contact Name/Title Dave Soloway, Marketing Director

Type of Engagement Sell promotional product and manage website orders for ctc products

Company ASSISTANCE LEAGUE, NATIONAL

Address 3100 W Burbank Blvd, Ste 100

City, ST, Zip Burbank, CA 91505

Phone Numbers/Email (818) 846-3777 AssistanceLeague.org

Contact Name/Title Anita Friesen, National President

Type of Engagement Manage website and product for National and all US based chapters

Company ASSISTANCE LEAGUE, LONG BEACH

Address 6220 E SPRING STREET

City, ST, Zip LONG BEACH, CA 90815

Phone Numbers/Email 562) 716-0568 www.allb.org

Contact Name/Title Shelly Barbre, Assistance League Public Relations

Type of Engagement Promotional products and gifts for Chapters

Company CMAA S. CA, CMAA SAN DIEGO, ACEC S. CA

Address 49 65TH PLACE

City, ST, Zip LONG BEACH, CA 90803

Phone Numbers/Email (562) 434-8409

Contact Name/Title Kelly Asper, President/Owner

Type of Engagement Awards, uniforms and promotional product sales

Company EPSON AMERICA

Address 3840 Kilroy Airport Way

City, ST, Zip LONG BEACH, CA 90806

Phone Numbers/Email (213) 447-3128

Contact Name/Title Kelly Pierce, Trade Show Manager

Type of Engagement Awards, uniforms and promotional product sales

Bidder's/proposers Company Name EMPIRE MARKETING

Legal Structure (corp/partner/proprietor) Sole Proprietor

Principle Office Address 6391 E Bixby Hill Road

City, ST, Zip Long Beach, CA 90815

Phone number and E-mail 562) 799-0503 EmpireAtYourService@gmail.com

Federal Employer Identification Number 545-73-5261

Title of Person Authorized to Sign Owner



WARRANTY CLAIM PROCEDURE (REQUIRED)

Submit this form with the BID, failure to do so is grounds for disqualification.

Please provide an explanation of the Warranty Claim Procedure for exchange, replacement and reimbursement of repair costs. You may use the space below to explain or you may attach a copy of written procedures to this packet. Any attachment must be clearly marked as "Warranty Claim Procedure" to be considered responsive.

Empire Marketing will reimburse or replace product that is damaged or misprinted.

All damaged or misprinted product will be asked to be returned.



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: n/a

Contact Name: _____ Phone: _____

Project Award Date: _____ Original Contract Value: _____

Term of Contract: _____

Completely explain the circumstances of any contract terminated and/or option years not exercised

Project city/agency/other: _____

Contact Name: _____ Phone: _____

Project Award Date: _____ Original Contract Value: _____

Term of Contract: _____

Completely explain the circumstances of any contract terminated and/or option years not exercised

Project city/agency/other: _____

Contact Name: _____ Phone: _____

Project Award Date: _____ Original Contract Value: _____

Term of Contract: _____



Completely explain the circumstances of any contract terminated and/or option years not exercised

Dawn McKenne

Name

4/17/17

Date

President

Title

A handwritten signature in blue ink, appearing to be "Dawn McKenne", written over a horizontal line.



RESTRICTIONS ON LOBBYING (REQUIRED >\$100,000)

Submit this form before final contract award, failure to do so is grounds for disqualification.

One form required of bidder and subcontractor having greater than a \$100,000 share of the bid. 31 U.S.C., § 1352 and U.S. DOT regulations on "New Restrictions on Lobbying," 49 C.F.R. Part 20.

Lobbying requirements apply to Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operation Service Contract/Turnkey contracts.

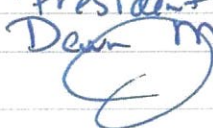
(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all tiers shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, as signed below, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Bidder's Company Name	Empire Marketing
Legal Structure (corp./partner/proprietor)	Sole proprietor
Select One	<input checked="" type="checkbox"/> Prime or <input type="checkbox"/> Subcontractor (submit after award)
Principle Office Address	6391 E Bixby Hill RD
City, ST, Zip	Long Beach CA 90815
Phone Number	562 799 0503
Fax Number	562 296 9715
E-Mail	Empire at your service@gmail.com
Federal Employer Identification Number	545 73 5261
Title of Person Authorized to Sign	President
Print Name of Person Authorized to Sign	Dawn McKenna
Date Signed and Authorized Signature	 4/17/17

PROPOSED DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

*This form must be submitted with the BID/Proposal,
to have it considered during BID/Proposal evaluation.*

*The bidder/proposer intends to utilize the following DBE contractors on this project.
Signature of participating DBE is confirmation of willingness to participate on this project.*

Company	_____
Address	_____
City, ST, Zip	_____
Phone Number	_____
Email	_____
Contact Name	_____
Type of work to be performed	_____
Dollar value of participation	_____
Signature of participating DBE _____	
Company	_____
Address	_____
City, ST, Zip	_____
Phone Number	_____
Email	_____
Contact Name	_____
Type of work to be performed	_____
Dollar value of participation	_____
Signature of participating DBE _____	
Company	_____
Address	_____
City, ST, Zip	_____
Phone Number	_____
Email	_____
Contact Name	_____
Type of work to be performed	_____
Dollar value of participation	_____
Signature of participating DBE _____	
Company	_____
Address	_____
City, ST, Zip	_____
Phone Number	_____
Email	_____
Contact Name	_____
Type of work to be performed	_____
Dollar value of participation	_____
Signature of participating DBE _____	


(DUPLICATE THIS FORM AS REQUIRED)



NOT ON EXCLUDED PARTIES LIST SYSTEM (REQUIRED)

Submit this form with the BID, failure to do so is grounds for disqualification.

The Bidder certifies that it is NOT on the Excluded Parties List System of ineligible firms for federally financed and assisted construction, materials, equipment contracts or services.

Bidder's Company Name	Empire Marketing
Legal Structure (corp./partner/proprietor)	Sole Proprietor
Principle Office Address	6391 E. Bixby Hill Road
City, ST, Zip	Long Beach CA 90815
Phone Number	562 799 0503
Fax Number	562 296 9715
E-Mail	EmpireAtYourService@gmail.com
Federal Employer Identification Number	545-73-5261
Title of Person Authorized to Sign	President
Print Name of Person Authorized to Sign	Dawn McKenna
Date Signed and Authorized Signature	



LIST OF SUBCONTRACTORS AND DBES (REQUIRED >½ OF 1% SHARE OF BID)

Submit this form with the BID/Proposal, failure to do so is grounds for disqualification.

One (1) form required of each bidder and proposed subcontractor having greater than ½ of 1% share of the bid. Government Code § 4100 on, "Subletting and Subcontract Fair Practices Act".

Company			
Address			
City, ST, Zip			
Phone Numbers/Email			
Contact Name/Title			
Type of Engagement			
Type of work to be performed			
Dollar value of participation	DBE qualified?	Yes <input type="checkbox"/>	No <input type="checkbox"/>

7/2

Company			
Address			
City, ST, Zip			
Phone Number			
Contact Name/Title			
Type of Engagement			
Type of work to be performed			
Dollar value of participation	DBE qualified?	Yes <input type="checkbox"/>	No <input type="checkbox"/>

Company			
Address			
City, ST, Zip			
Phone Number			
Contact Name/Title			
Type of Engagement			
Type of work to be performed			
Dollar value of participation	DBE qualified?	Yes <input type="checkbox"/>	No <input type="checkbox"/>

Total DBE participation	Dollars	% of Total Contract
-------------------------	---------	---------------------

Bidder's/Proposer's Company Name	Empire Marketing		
Legal Structure (corp./partner/proprietor)	Sole proprietor		
Principle Office Address	6341 E Bixby Hill Rd		
City, ST, Zip	Long Beach CA 90815		
Phone Number and E-Mail	562 799 0503 Empire at your service@gmail.com		
Federal Employer Identification Number	545 73 5261		
Title of Person Authorized to Sign	President		
Print Name of Person Authorized to Sign	Dawn McKenne		
Date Signed and Authorized Signature	4/17/17		

DUPLICATE THIS FORM AS NECESSARY TO COMPLETE LIST (SIGN LAST ONE)



DECLARATION OF NON-COLLUSION (REQUIRED)

Submit this form with the BID, failure to do so is grounds for disqualification.

I hereby declare (or affirm) under penalty of perjury that:

1. I am the bidder (if the bidder is an individual), a partner in the bid (if the bidder is a partnership), or an officer or employee of the bidding corporation and have authority to sign on its behalf (if the bidder is a corporation);
2. The bidder has independently produced the attached bid(s) without collusion, agreement, understanding or planned common course of action, with any other source, that would limit independent bidding competition;
3. The contents of the bid(s) have not been communicated by the bidder and or its employees and or agents to any person not an employee and or agent of the bidder and or its surety, on any bond furnished with the bid, and will not be communicated to any such person prior to the official opening of the bid, and
4. I have fully informed myself regarding the accuracy of the statements made in this declaration.

Bidder's Company Name Empire Marketing
(corp. partnership/sole proprietor) sole proprietor
Principle Office Address 6391 E Bixby Hill Rd
City, ST, Zip Long Beach CA 90815
Phone Number 562 799 0503
Fax Number 562 296 9715
E-mail Number empire at your service @ gmail. com
Federal Employer I.D. Number 545 73 5261
Title of Person Authorized to Sign Dawn McKenna
Print Name Authorized to Sign President
Authorized Signature [Signature]
Date Signed 4/17/17



**DEBARMENT, SUSPENSION, & OTHER RESPONSIBILITY MATTERS
(REQUIRED >\$25,000)**

Submit this form with BID, failure to do so is grounds for disqualification.

One (1) form required of each bidder and subcontractor having greater than a \$25,000 share of the bid. U.S. Code, Title 31, § 6101 note and U.S. DOT regulations on "Debarment and Suspension," 49 C.F.R. Part 29.

The Participant (the bidder and potential contractor or potential subcontractor for a third party contract) certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a Federal department or agency;
2. Have not within a three-year period preceding this bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/bid had one or more public transactions (Federal, State, or local) terminated for cause or default.

An explanation must be attached to this certification regarding any exception(s).

The Primary Participant certifies that it has authority under State and local laws to comply with the subject assurances, the truthfulness and accuracy of the contents of this certification, any attached explanation submitted herewith, understands the applicability of 31 U.S.C. Sections 3801 *Et. Seq.* and that this certification has been legally made.

Bidder's Company Name	Empire Marketing
Legal Structure (corp./partner/proprietor)	Sole proprietor
Select One	<input checked="" type="checkbox"/> Prime or <input type="checkbox"/> Subcontractor (submit after award)
Principle Office Address	6391 E Bixby Hill Rd
City, ST, Zip	Long Beach CA 90815
Phone Number	562 799 0503
Fax Number	562 296 9715
E-Mail	empire at your service@gmail.com
Federal Employer Identification Number	545 73 5261
Title of Person Authorized to Sign	President
Print Name of Person Authorized to Sign	Dawn McKenna
Date Signed and Authorized Signature	4/17/17



CONTRACT AGREEMENT

between

CONTRACTOR

American Solutions for Business
31 E. Minnesota Avenue
Glenwood, MN 56334

(hereinafter "CONTRACTOR")

Telephone: (800) 862-3690

Email: bcornell@americanbus.com

And

Omnitrans

1700 West Fifth Street

San Bernardino, CA 92411

(hereinafter "OMNITRANS")

CONTRACT DOCUMENTS

CONTRACT NO. MKP17-79C

PROMOTIONAL ITEMS

Contract Amount: \$80,000

Omnitrans Project Manager:

Name: Nicole Ramos

Title: Marketing Manager

Telephone: (909) 379-7155

Email: Nicole.ramos@omnitrans.org

Contract Administrator:

Name: Krystal Turner

Title: Contract Administrator

Telephone: (909) 379-7202

Email: krystal.turner@omnitrans.org



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ATTACHMENT A – SCOPE OF WORK

ATTACHMENT B – PRICING

ATTACHMENT C - FORMS

This Agreement is made and entered into as of this ____ day of _____, by and between Omnitrans (hereinafter referred to as "OMNITRANS") and American Solutions for Business, (hereinafter referred to as "CONTRACTOR").

RECITALS

WHEREAS, OMNITRANS is a joint powers authority organized under Section 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 Eighty Thousand Dollars (\$80,000), 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
Title: Contract Administrator

To CONTRACTOR:

American Solutions for Business
316 Hilmen Drive
Solana Beach, CA 92075
Attn: Brenda Cornell
Title: Sales Representative

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: Nicole Ramos, Marketing 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>
Brenda Cornell	Sales Representative/Contact

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.

CONTRACTOR shall not, without the express written consent of Omnitrans, either:

- a. Substitute any person, firm, or corporation as subcontractor in place of the subcontractors identified below; or
- b. Permit any subcontract to be assigned or transferred; or
- c. Allow work to be performed by anyone other than the original subcontractor listed below.

Subcontractor's Name and Address	Work to Be Performed
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 IFB-MKP17-79, and any and all of its Addenda, Appendices, Exhibits and Attachments; and (3) CONTRACTOR's proposal dated May 4, 2017 and its Appendices, Exhibits, Attachments and Best & Final Offer dated May 4, 2017.

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

CONTRACTOR

Company name: American Solutions for Business

P. Scott Graham
CEO/General Manager

Name:
Title:

Date

Date

Federal Tax I.D. No. 41-1393684

IDP



ATTACHMENT A – SCOPE OF WORK
MKP17-79C
PROMOTIONAL ITEMS

1. BACKGROUND



Contractors shall work with Omnitrans to provide promotional material for dissemination within and outside of Omnitrans. Contractors must have a representative assigned to Omnitrans' account to ensure clear and timely communication.

2. OMNITRANS LOGOS



A. Customization with Omnitrans' logo include, but are not limited to: 1 color imprints, 2 color imprints, 3 color imprints, debossed logos, hot stamps, etching, laser engraving and PMS Color identification. Omnitrans must be provided with samples to verify PMS color scheme. The final product PMS colors must match Omnitrans' graphic standards otherwise a full refund must be received by the Agency or a new order placed based on Omnitrans' discretion.

B. PMS Color schemes are:

CMYK:

	55c 15m 100y 0k
	90c 65m 0y 0k

RGB

	131r 187g 65b
	32r 98g 176b

PMS

	369C
	660C

ATTACHMENT A – SCOPE OF WORK

MKP17-79C

PROMOTIONAL ITEMS

- C. Sample artwork of the Omnitrans logo:



- D. Pictures of prospective items for purchase are made as part of this Attachment, Exhibit 1. Pictures are provided as an example of the types of promotional materials that Omnitrans has previously required.

3. REQUIREMENTS

- A. Omnitrans requires the purchase of promotional merchandise for dissemination within and outside of the Agency. Items include, but are not limited to: tote bags, pens, twill caps, pencils, hand fans, rectangular key lights, folding umbrellas, first aid kits, buttons, drawstring bags, lapel pins, pass holders, mobile device holders, foldable flyers, hand sanitizer, sunscreen, coffee mugs, pins, neck wallets, koozies, and magnetic calendars. As standard practice, Omnitrans will solicit price quotations from all bench vendors for purchases.
- B. From time to time Omnitrans may require unique variations of items. These will be considered specialty items. Omnitrans reserves the right to add specialty items.

4. PERFORMANCE

- A. Catalogs

Contractors must provide copies of vendor's full line catalog, as needed. Online catalogs are required. The catalogs must include pictures, complete description and catalog pricing.

ATTACHMENT A – SCOPE OF WORK

MKP17-79C

PROMOTIONAL ITEMS

B. Samples

Contracted vendors must provide product samples before orders will be placed. The vendor must have knowledgeable representatives to provide product consulting when needed. Samples for custom order must be provided at time of discussion for selection of type of item.

C. Quality

Omnitrans requires a range of promotional products from business professional items to item giveaways for large events. Contractors will provide a large range of products, including creative, new releases. Item quality shall be commensurate with price, intended use, and with that available from other suppliers.

D. Ordering Process

1. Omnitrans reserves the right to place orders with other promotional item supply firms if Omnitrans determines it is necessary for specialty items. For regular promotional items, Omnitrans will select the lowest priced items, meeting the needs of Omnitrans.
2. Omnitrans will contact the vendor to review samples, determine the most suitable item and graphic requirements. Omnitrans will provide the artwork, approve the proof and place the order.
3. Service levels and turnaround times will also be considerations in selecting which contracted vendors to use.

E. Product Lead-Times

Items must be received by Omnitrans within twenty (20) business days or less after the order is placed. Any order requiring more than 20 business days to fulfill must get Omnitrans' approval at time of order. For specialty items, the vendor must inform Omnitrans of the lead-time during the process of item selection and before the item is ordered.

F. Delivery

1. Ordered items must be delivered to:
Omnitrans, 1700 West 5th Street, San Bernardino, CA 92411.
2. Boxes of items delivered shall not exceed 40 pounds.
3. Boxes of items shall include packing slips.

ATTACHMENT A - EXHIBIT 1
MKP17-79C
PROMOTIONAL MERCHANDISE

Omnitrans Promotional Item Sampling for Bidding

Please note that photos are for reference only, and need not be matched.

Twill Cap

Size: Standard size, lightweight, unstructured, medium profile

Color: Blue

Art: Full-color embroidery, provided electronically



Pens

Size: Standard-size retractable ballpoint pen, 1/2" x 1 3/4" imprint or similar

Color: Silver or white plus one contrast color (blue or green)

Art: One-color imprint, provided electronically

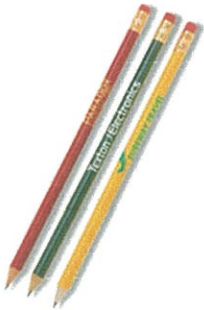


Pencils

Size: Standard size #2 lead pencil with pink rubber eraser, 3/4" x 3" imprint or similar

Color: Blue and/or green

Art: One-color imprint, provided electronically



Hand Fans

Size: 5 1/2" x 6" or similar, round

Color: Blue or green

Art: One-color imprint, provided electronically



Rectangular Key Light

Size: 7/8" x 2 3/8" x 3/16" or similar

Color: Blue or green

Art: One-color imprint, provided electronically



ATTACHMENT A - EXHIBIT 1
MKP17-79C
PROMOTIONAL MERCHANDISE

Hand Sanitizer

Size: 1/2 oz. 2-3/4" x 1-5/16"
Artwork Required



Sunscreen

Size: 1.9 oz. 4-1/2" x 1-5/8"
Artwork Required



Coffee Mugs

Size: 11 oz.
Artwork Required



Tote Bags

Size: 15" x 13"
Artwork Required

ATTACHMENT A - EXHIBIT 1
MKP17-79C
PROMOTIONAL MERCHANDISE



Pins

Size: 1.25" or smaller
Artwork Required



Neck Wallet

Size: 6-5/8" x 5"
Artwork Required



Koozies

Size: 5-1/4" x 3-7/8"
Artwork Required



Magnetic Calendar

Size: 3" x 4-1/8"
Artwork Required



CURRENT CLIENT REFERENCES. MINIMUM OF FIVE (5) REQUIRED

Submit this form with the BID/Proposal, with valid contact information, failure to do so is grounds for disqualification.

Company CRDN
Address 2060 Coolidge HWY
City, ST, Zip Berkley, MI 48072
Phone Numbers/Email 248-246-8770 jeff.schuliz@crdn.com
Contact Name/Title Jeff Schultz - VP of Communication
Type of Engagement Stationer, Business Forms, Print on Demand Marketing Tools, Yard Signs

Company Mr Rekey
Address 1421 Weil Branch Parkway, STE 104
City, ST, Zip Pflugerville, TX 78660
Phone Numbers/Email 512-600-3353 Dyannalson@rekey.com
Contact Name/Title Dyanna Larson, National Marketing Assistant
Type of Engagement Print, promo, apparel ACES site

Company Smoother King
Address 121 Park Place
City, ST, Zip Covington, LA 70433
Phone Numbers/Email 985-935-6973 katherinem@smootherking.com
Contact Name/Title Katherine Meariman, EVP of Administration
Type of Engagement Forms, promotional products, variable print

Company Tidewater Physical Therapy
Address 771 Pilot House Drive
City, ST, Zip Newport News, VA 23605
Phone Numbers/Email 757-873-2302 dmauer@tpti.com
Contact Name/Title Debbie Mauer, Office Administrator
Type of Engagement Promotional products, office supplies, stationery.

Company PSCI - Professional Services Contract, INC
Address 718 WFM 1626, BLDG 100
City, ST, Zip Austin, TX 78748
Phone Numbers/Email 512-615-8420
Contact Name/Title Jaime Edgmon, Public Affairs & Charitable Giving Manager
Type of Engagement Promotional products, business cards, uniforms, printing, banners

Bidder's/Proposer's Company Name American Solutions for Business
Legal Structure (corp./partner/proprietor) Corporations
Principle Office Address 31 E. Minnesota Avenue
City, ST, Zip Glenwood, MN 56334
Phone Number and E-Mail 800-862-3690 bcornell@americanbus.com
Federal Employer Identification Number 41-1393684
Title of Person Authorized to Sign Vice President of Sales Resources
Print Name of Person Authorized to Sign Wayne Martin
Date Signed and Authorized Signature 05/03/2017

Wayne Martin

Rev08172016



NOT ON EXCLUDED PARTIES LIST SYSTEM (REQUIRED)

Submit this form with the BID, failure to do so is grounds for disqualification.

The Bidder certifies that it is NOT on the Excluded Parties List System of ineligible firms for federally financed and assisted construction, materials, equipment contracts or services.

Bidder's Company Name	American Solutions for Business
Legal Structure (corp./partner/proprietor)	Corporations
Principle Office Address	31 E. Minnesota Ave
City, ST, Zip	Glenwood, MN 56334
Phone Number	800-862-3690
Fax Number	320-634-5265
E-Mail	bcornell@americanbus.com
Federal Employer Identification Number	41-1393684
Title of Person Authorized to Sign	Vice President of Sales Resources
Print Name of Person Authorized to Sign	Wayne Martin
Date Signed and Authorized Signature	 05/03/2017




DECLARATION OF NON-COLLUSION (REQUIRED)

Submit this form with the BID, failure to do so is grounds for disqualification.

I hereby declare (or affirm) under penalty of perjury that:

1. I am the bidder (if the bidder is an individual), a partner in the bid (if the bidder is a partnership), or an officer or employee of the bidding corporation and have authority to sign on its behalf (if the bidder is a corporation);
2. The bidder has independently produced the attached bid(s) without collusion, agreement, understanding or planned common course of action, with any other source, that would limit independent bidding competition;
3. The contents of the bid(s) have not been communicated by the bidder and or its employees and or agents to any person not an employee and or agent of the bidder and or its surety, on any bond furnished with the bid, and will not be communicated to any such person prior to the official opening of the bid, and
4. I have fully informed myself regarding the accuracy of the statements made in this declaration.

Bidder's Company Name	American Solutions for Business
(corp./partnership/sole proprietor)	Corporation
Principle Office Address	31 E. Minnesota Avenue
City, ST, Zip	Glenwood, MN 56334
Phone Number	800-862-3690
Fax Number	320-634-5265
E-mail Number	bcornell@americanbus.com
Federal Employer I.D. Number	41-1393684
Title of Person Authorized to Sign	Vice President of Sales Resources
Print Name Authorized to Sign	Wayne Martin
Authorized Signature	
Date Signed	05/03/2017



**DEBARMENT, SUSPENSION, & OTHER RESPONSIBILITY MATTERS
(REQUIRED >\$25,000)**

Submit this form with BID, failure to do so is grounds for disqualification.


One (1) form required of each bidder and subcontractor having greater than a \$25,000 share of the bid. U.S. Code, Title 31, § 6101 note and U.S. DOT regulations on "Debarment and Suspension," 49 C.F.R. Part 29.

The Participant (the bidder and potential contractor or potential subcontractor for a third party contract) certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a Federal department or agency;
2. Have not within a three-year period preceding this bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/bid had one or more public transactions (Federal, State, or local) terminated for cause or default.

An explanation must be attached to this certification regarding any exception(s).

The Primary Participant certifies that it has authority under State and local laws to comply with the subject assurances, the truthfulness and accuracy of the contents of this certification, any attached explanation submitted herewith, understands the applicability of 31 U.S.C. Sections 3801 *Et. Seq.* and that this certification has been legally made.

Bidder's Company Name	American Solutions for Business
Legal Structure (corp./partner/proprietor)	Corporation
Select One	<input checked="" type="checkbox"/> Prime or <input type="checkbox"/> Subcontractor (submit after award)
Principle Office Address	31 E. Minnesota Avenue
City, ST, Zip	Glenwood, MN 56334
Phone Number	800-862-3690
Fax Number	320-634-5265
E-Mail	bcornell@americanbus.com
Federal Employer Identification Number	41-1393684
Title of Person Authorized to Sign	Vice President of Sales Resources
Print Name of Person Authorized to Sign	Wayne Martin
Date Signed and Authorized Signature	 05/03/2017



LIST OF SUBCONTRACTORS AND DBES (REQUIRED >½ OF 1% SHARE OF BID)

Submit this form with the BID/Proposal, failure to do so is grounds for disqualification.

One (1) form required of each bidder and proposed subcontractor having greater than ½ of 1% share of the bid. Government Code § 4100 on, "Subletting and Subcontract Fair Practices Act".

Company	N/A		
Address			
City, ST, Zip			
Phone Numbers/Email			
Contact Name/Title			
Type of Engagement			
Type of work to be performed			
Dollar value of participation	DBE qualified?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Company			
Address			
City, ST, Zip			
Phone Number			
Contact Name/Title			
Type of Engagement			
Type of work to be performed			
Dollar value of participation	DBE qualified?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Company			
Address			
City, ST, Zip			
Phone Number			
Contact Name/Title			
Type of Engagement			
Type of work to be performed			
Dollar value of participation	DBE qualified?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Total DBE participation	Dollars	% of Total Contract	

Bidder's/Proposer's Company Name American Solutions for Business
 Legal Structure (corp./partner/proprietor) Corporation
 Principle Office Address 31 E. Minnesota Avenue
 City, ST, Zip Glenwood, MN 56334
 Phone Number and E-Mail 800-862-3690
 Federal Employer Identification Number 41-1393684
 Title of Person Authorized to Sign Vice President of Sales Resources
 Print Name of Person Authorized to Sign Wayne Martin
 Date Signed and Authorized Signature *Wayne Martin* 05/03/2017
DUPLICATE THIS FORM AS NECESSARY TO COMPLETE LIST (SIGN LAST ONE)



PROPOSED DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

*This form must be submitted with the BID/Proposal,
to have it considered during BID/Proposal evaluation.*

*The bidder/proposer intends to utilize the following DBE contractors on this project.
Signature of participating DBE is confirmation of willingness to participate on this project.*

Company	_____
Address	_____
City, ST, Zip	_____
Phone Number	_____
Email	_____
Contact Name	_____
Type of work to be performed	_____
Dollar value of participation	_____
Signature of participating DBE	

Company	_____
Address	_____
City, ST, Zip	_____
Phone Number	_____
Email	_____
Contact Name	_____
Type of work to be performed	_____
Dollar value of participation	_____
Signature of participating DBE	

Company	_____
Address	_____
City, ST, Zip	_____
Phone Number	_____
Email	_____
Contact Name	_____
Type of work to be performed	_____
Dollar value of participation	_____
Signature of participating DBE	

Company	_____
Address	_____
City, ST, Zip	_____
Phone Number	_____
Email	_____
Contact Name	_____
Type of work to be performed	_____
Dollar value of participation	_____
Signature of participating DBE	

(DUPLICATE THIS FORM AS REQUIRED)



RESTRICTIONS ON LOBBYING (REQUIRED >\$100,000)

Submit this form before final contract award, failure to do so is grounds for disqualification.

One form required of bidder and subcontractor having greater than a \$100,000 share of the bid.
31 U.S.C., § 1352 and U.S. DOT regulations on "New Restrictions on Lobbying," 49 C.F.R. Part 20.

Lobbying requirements apply to Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operation Service Contract/Turnkey contracts.

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all tiers shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, as signed below, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Bidder's Company Name	American Solutions for Business
Legal Structure (corp./partner/proprietor)	Corporation
Select One	<input checked="" type="checkbox"/> Prime or <input type="checkbox"/> Subcontractor (submit after award)
Principle Office Address	31 E. Minnesota Avenue
City, ST, Zip	Glenwood, MN 56334
Phone Number	800-862-3690
Fax Number	320-634-5265
E-Mail	bcornell@americanbus.com
Federal Employer Identification Number	41-1393684
Title of Person Authorized to Sign	Vice President of Sales Resources
Print Name of Person Authorized to Sign	Wayne Martin
Date Signed and Authorized Signature	 05/03/2017



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: N/A
Contact Name: _____ Phone: _____

Project Award Date: _____ Original Contract Value: _____

Term of Contract: _____

Completely explain the circumstances of any contract terminated and/or option years not exercised

Project city/agency/other: _____
Contact Name: _____ Phone: _____

Project Award Date: _____ Original Contract Value: _____

Term of Contract: _____

Completely explain the circumstances of any contract terminated and/or option years not exercised

Project city/agency/other: _____
Contact Name: _____ Phone: _____

Project Award Date: _____ Original Contract Value: _____

Term of Contract: _____



Completely explain the circumstances of any contract terminated and/or option years not exercised

Wayne Martin

Name

05/03/2017

Date

Vice President of Sales Resources

Title

Submit this form with the BID, failure to do so is grounds for disqualification.

Please provide an explanation of the Warranty Claim Procedure for exchange, replacement and reimbursement of repair costs. You may use the space below to explain or you may attach a copy of written procedures to this packet. Any attachment must be clearly marked as "Warranty Claim Procedure" to be considered responsive.



CONTRACT AGREEMENT

between

CONTRACTOR

PlanetBids, Inc.
5850 Canoga Ave., Suite 301
Woodland Hills, CA 91367

(hereinafter "CONTRACTOR")

Telephone: (818) 992-1771

Email: alan@planetbids.com
arpie@planetbids.com

CONTRACT DOCUMENTS

CONTRACT NO. PRC17-51

ONLINE BIDDING SYSTEM

And

Contract Amount: \$187,000

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

Omnitrans Project Manager:

Name: Eugenia F. Pinheiro

Title: Interim Director of Procurement

Telephone: (909) 379-7203

Email: eugenia.pinheiro@omnitrans.org

Contract Administrator:

Name: Krystal N. Turner

Title: Contracts Administrator

Telephone: (909) 379-7202

Email: krystal.turner@omnitrans.org



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ATTACHMENT A – SCOPE OF WORK

ATTACHMENT B – PRICING

ATTACHMENT C - FORMS

This Agreement is made and entered into as of this 1st day of August, 2017, and between Omnitrans (hereinafter referred to as "OMNITRANS") and PlanetBids, Inc. (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 July 31, 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 August 1, 2020 through July 31, 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 B, and subject to the maximum cumulative payment obligation.

OMNITRANS' maximum cumulative payment obligation under this Agreement shall not exceed One Hundred Eight Seven Thousand Dollars (\$187,000), 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
Contracts@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.

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:

PlanetBids, Inc.
5850 Canoga Ave., Suite 301
Woodland Hills, CA 91367
Attn: Alan Zavian
CEO/Co-Founder

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: Eugenia F. Pinheiro, Interim Director of Procurement.

- 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>
Alan Zavian	Chief Operating Officer
Arpie Zavian	Chief Technology Officer, Senior Project Manager
Ron Bacica	Vice President of Development
Karen Haugland	Software Developer
Simon Melik	Systems Analyst, Development
Ria Diaz	Account Executive
Chris Yates	Account Executive
Lena Mihranian	Customer Support Specialist

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 and Omnitrans shall continue to pay for such services as provided in this Agreement.

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 of Omnitrans accumulated in performing this Agreement, whether completed or in process, to Omnitrans' CEO/General Manager. OMNITRANS shall not be entitled to any refund of fees or other payments made to CONTRACTOR prior to the effective date of termination.

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	

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 arising out of or related to claims violation of law, intellectual property, infringement, 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 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 that are specified as deliverable items 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 data produced under this Agreement and specified as a deliverable item 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. All documentation and Software required for Omnitrans to utilize the services delivered hereunder which predates this Contract and which otherwise owned by Contractor or its Third Party Software Contractors, and all Documentation and Software so required which is created by Contractor or its Third Party Software Contractors for delivery of the services hereunder 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.

Likewise, OMNITRANS shall provide written notice to CONTRACTOR disclosing the identity of any individual who OMNITRANS desires to employ or retain under a contract, and who (1) presently serves as an employee of CONTRACTOR, or (2) served as an employee of CONTRACTOR within the previous 12 months of the date of the proposed employment or retention by OMNITRANS. OMNITRANS' 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, unless otherwise compelled by a court or governmental agency having jurisdiction and legal authority to compel such disclosure.

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, 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, 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 RFP-PRC17-51 and any and all of its Addenda, Appendices, Exhibits and Attachments; and (3) CONTRACTOR's proposal dated January 11, 2017 and its Appendices, Exhibits, Attachments and Best and Final Offer dated May 15, 2017.

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

CONTRACTOR

Company name: PlanetBids, Inc.

P. Scott Graham
CEO/General Manager

Name: Alan Zavian
Title: CEO, Co-Founder

Date

Date

Federal Tax I.D. No. 95-4785125

IDP. 

ATTACHMENT A – SCOPE OF WORK
PRC17-51
ONLINE BIDDING SYSTEM

I. PURPOSE/INTENT

Contractor shall provide a comprehensive online bidding system that vendors may use to self-register, manage business information, and view open solicitations. The solution shall provide Omnitrans the ability to post awards and contract information. Omnitrans requires eight (8) full licenses, two (2) with administrative rights, and unlimited read only.

II. SOFTWARE FUNCTIONALITY

The online bidding system shall provide public information about contracting opportunities and allow vendors interested in doing business with Omnitrans to register, bid/propose on open solicitations. It is essential the application provide a stable and accessible solution:

A. Solicitation Management

1. Ability for Omnitrans users to create (add), publish, edit, and cancel solicitations.
2. Ability to create a solicitation means to enter and save it to the system with the following information: the title/name of the procurement, solicitation type, and the internal assigned solicitation number. While not published, the procurement and all associated documents should not be accessible to anyone but an authorized Omnitrans representative.
3. (Publishing a solicitation means to make it visible to the public on the web portal with the following information; Title or name of the procurement, the Bid/Proposal due date(s), the solicitation number)
4. The system should be customizable to match the needs of Omnitrans and include advanced functions, such as customizable fields and ad hoc reporting, which may include Disadvantage Business Enterprises (DBE).
5. The solicitation management system shall allow Omnitrans to post solicitation notices, solicitations and other associated documents online. It should allow vendors to submit online quotes and bids for Omnitrans' staff to review responses.
6. The system shall tabulate quotes and bids
7. Additional capabilities should include the following :
 - i. Ability to manage daily bus parts solicitations

ATTACHMENT A – SCOPE OF WORK
PRC17-51
ONLINE BIDDING SYSTEM

- ii. Ability to handle up to 1,000 bid line items
- iii. Ability for bidders to bid without responding to every line item
- iv. Ability to import and export solicitation line items, bid results,
 - v. Post Request for Quotes viewable only by select or invited vendors.
- vi. Post an unlimited number of procurement documents that can be organized into folders
- vii. There should be no restriction on the size or types of files that can be posted
- viii. Allow vendors to bulk download the entire bid package or by individual documents
- ix. Automatically generate email notification of solicitations to vendors based upon commodity/category code
 - x. Post addenda and send notifications to other users via email.
- xi. Provide a system for vendors to acknowledge receipt of addendum notifications
- xii. Provide an audit trail by logging all documents downloaded by registered vendors and an acknowledgment of emails sent and delivered to vendors
- xiii. Provide a current and historical solicitation calendar that provides an overview of recordable events
- xiv. Ability to post event meeting notifications online and track vendor registration and attendance
- xv. Ability to receive vendor questions through the online bidding system
- xvi. Ability for vendors to submit bids online through a secure connection. Bids could include lump sum or multi-item bid pricing, proposal upload, and response to Request For Information (RFI) questions
- xvii. Ability for staff to analyze bids including total price and cross-tab evaluation
- xviii. Ability to create and post award documents
- xix. Ability to seal and secure bids, so they cannot be accessible until after the closing date and time has passed
 - xx. Ability for bidders to update or withdraw bids until the bid opening
- xxi. Ability to post notices for pre and post bid events, accept meeting registrations, and track meeting attendance.
- xxii. Ability for staff to create new solicitations from bid templates or by copying previous bids.
- xxiii. Ability to assign check boxes and custom naming fields that will require certain documents be completed prior to or after release of each procurement.

ATTACHMENT A – SCOPE OF WORK
PRC17-51
ONLINE BIDDING SYSTEM

- xxiv. System should allow for the upload of associated documents, set automatic reminders to track completion of customized requirements and ability to provide a status report.
- xxv. Ability to assign record retention expiration dates and ability to run ad hoc reports.

B. Vendor Management

1. The vendor management system should provide a centralized access to all vendor records. Vendors should have the ability to self-register and manage their business profile.
2. Registration should include selecting from a list of commodity codes/category codes, such as NIGP, custom list or some other approved list.
3. Solution should be able to add Disadvantage Business Enterprise, Disabled Veteran, Minority, Women-Owned, Emerging Small Business, Small Disadvantage Business, Small Business Element designated businesses or other classifications with a means of attaching relevant documents and information, as defined by Omnitrans.
4. Creation and saving of custom agency vendor fields/lists.
5. Upload various formats of associated documents, such as pdf, word or excel.
6. Exporting of vendor lists and associated data to an Excel spreadsheet (or csv file)
7. Recording and logging communications (emails, notes and questions) related to vendors contracts and procurements
8. Role based multiple user accounts for registered vendors
9. Automatically matching of vendor records to reduce duplications in the system
10. As part of the initial software setup, existing vendor records will be importable and have an email pushed out/sent to the vendors asking them to complete their online registration process

C. Contract Management

1. The contract management system shall serve as a central repository of all bid documents and contract information for use by internal staff. Its general capabilities shall include:

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2. Ability to assign manual and/or automatically generate and link contract sequential numbering for ease of tracking.
3. Ability to upload and modify contracts and upload supporting documentation.
4. Ability to track warranty effective and expiration dates and upload warranty documents for unlimited products associated to each contract with the ability to set a notice flag.
5. Ability to track spending including payments to subcontractors.
6. Ability to assign and/or automatically calculate tax and retainage and keep a running total of retainage balance. Retainage amount/percentages to be manually set.
7. Ability to track contract milestones for associated structured payments.
8. Ability to post a contract summary online including contract amounts, existing supplier, and expiration dates.

D. Insurance Management

1. Ability to upload insurance documents and set automatic re-minders for tracking insurance policy expirations for multiple policy types (auto, CGL, Workers Compensation, etc.) for each registered contract
2. Ability to manually input insurance producers' profile (company, name, etc.)
3. Ability to have a field reference a contract or purchase order number

E. DBE Management

1. Many Federal contracts require goal participation by Disadvantaged Business Enterprises (DBE). These contracts have requirements for reporting on DBE participation in awards and payments. To help manage the process and simplify reporting, Omnitrans requires an integrated DBE management system. Its basic functions shall include:
 - i. Ability to create reports showing DBE vendors invited to bid, DBE vendors who submitted bids, DBE vendors who received contracts, and the amount paid to DBE vendors and Primes.
 - ii. Ability for prime contractors to report on amounts awarded and actual amounts paid to DBE subcontractors.

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- iii. Ability for vendors (sub-contractors) to upload and maintain their DBE status documentation
- iv. Ability to confirm the validity of DBE status
- v. Ability to assign, track and report on other business designations (Disabled Veteran, Minority, Women-Owned, Emerging Small Business, Disadvantage Business Enterprise, etc.)

III. IMPLEMENTATION REQUIREMENTS

- A. The solution provided shall include all services necessary for implementation of a new online bidding system. This system shall include, but not be limited to:
 - 1. Set up the system in a sandbox, test and go live
 - 2. Consulting on industry best practices
 - 3. Setup and assist Omnitrans staff with an Omnitrans branded portal
 - 4. Any required customizations or configurations
 - 5. Importing vendor database
 - 6. Implementation of commodity/category codes or other approved codes for vendor registrations and solicitation posting
 - 7. Online and hands-on staff training and training materials
 - 8. Coordinate and assist Omnitrans' IT staff with implementation.
- B. Omnitrans operates servers in-house, and requests that the contractor specifies and discloses pricing of any computer equipment (or approved equal), hardware and software required of this project
- C. Contractor shall specify the number, type and specifications of the recommended Server(s) necessary for the implementation of their submitted system along with recommended ancillary hardware such as network routers, switches, UPS, patch cables and power supplies.
- D. Omnitrans desires that the following specifications be used, if required:
 - 1. Dell Host servers using VMware ESXi 5.1 virtualization software Operating Systems to be Microsoft Windows Server 2008 R2 Standard Edition or later
 - 2. Database System to be Microsoft SQL Server 2008 R2 or later
 - 3. If required, Omnitrans may require contractor to specify the necessary user workstation configurations to enable user access to the proposed system.

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4. Omnitrans utilizes workstations with Microsoft Windows 7 and Office 2013 Professional (with Internet and network LAN/WAN connectivity.)

IV. WORK PLAN AND SCHEDULE

- A. Must be an organized spreadsheet or project management software, such as Microsoft Project (or equal)
- B. Include the following components in schedule: task ID, percent complete, task description, duration, start date, end date, predecessor tasks, resources required with percentage of time based on a work day and week agreed to by the parties
- C. Take into account Omnitrans' business days and holidays
- D. Relate tasks back to the appropriate detail in the Work Plan by using the same task number

V. PROJECT MANAGEMENT

- A. Establish project milestones identical to those shown in the Work Plan
- B. Provide detailed written status reports to the designated Omnitrans project manager that include, but are not limited to work completed; work in progress; scope changes; schedule changes; and issues and delays
- C. Document in writing all decisions made, recommendations, results of reviews, and meetings or other appropriate communications where information is exchanged through the use of Contract Amendments and/or Change Orders or meeting minutes. This may be accomplished by updating the detailed Work Plan or updating other documents as appropriate and agreed upon by Omnitrans.
- D. Meet regularly with Omnitrans' project manager and other staff designated to review progress, critical risk factors that may affect the project schedule or other success factors, as well as unique issues that may surface during the project.
- E. Obtain signed Omnitrans acceptance for all deliverables, tasks and milestones as outlined and agreed upon in the project Work Plan.

VI. OMNITRANS RESPONSIBILITIES

A. Omnitrans shall:

1. Provide a Project Manager who will act as the primary point of contact with the Consultant to provide project oversight, high level guidance and necessary decision making

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2. Provide appropriate access to the premises, facilities, systems and AVTA staff members assigned to the project
3. Conduct joint project team and planning meetings
4. Facilitate required meetings, and ensure availability of necessary staff and required resources
5. Provide the necessary interface requirements for other Omnitrans applications, if available
6. Facilitate connectivity to the existing network

VII. CONSULTANT RESPONSIBILITIES

- A. Omnitrans may elect to use an IT Consultant to assist in the implementation of this project. Their responsibilities may include, but may not be limited to the following:
 1. Participation in overall project management
 2. Updating the specifications and monitoring system development
 3. Providing installation supervision assistance
 4. Recommendations regarding Omnitrans' action(s) in response to each contractor invoice (e.g., pay in full, pay in part, require resubmission). Tracking the overall invoicing and payment status for each payment milestone
 5. Review of the contractor's design and documentation, including the following:
 - i. Review the detailed Work Plan and Milestones
 - ii. Participate in the design review(s)
 - iii. Review Acceptance Test Plans;
 - iv. Review training materials; and
 - v. Review documentation and manuals; and
 - vi. Participation in initial design and field-level acceptance, making maintenance recommendations, and supporting the transition of all systems into full operations.03100

End of Scope of Work

ATTACHMENT B – PRICING
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ONLINE BIDDING SYSTEM

ONLINE BIDDING SYSTEM MODULES	SETUP	Year 1	Year 2	Year 3	*TOTAL
Vendor & Bid management - Base Year 1	\$0	\$29,000	\$0	\$0	\$29,000
Vendor & Bid management - Base Year 2	\$0	\$0	\$29,000	\$0	\$29,000
Vendor & Bid management - Base Year 3	\$0	\$0	\$0	\$29,000	\$29,000
Unlimited Read Only Users	\$0	\$5,000	\$5,000	\$5,000	\$15,000
One time Set Up & Configuration Fee	\$0	\$0	\$0	\$0	\$0
Contract Management – Base Year 1	\$0	\$12,000	\$0	\$0	\$12,000
Contract Management – Base Year 2	\$0	\$0	\$12,000	\$0	\$12,000
Contract Management – Base Year 3	\$0	\$0	\$0	\$12,000	\$12,000
One time Set Up & Configuration Fee	\$0	\$0	\$0	\$0	\$0
Business Certification Management – Base Year 1	\$0	\$8,000	\$0	\$0	\$8,000
Business Certification Management – Base Year 2	\$0	\$0	\$8,000	\$0	\$8,000
Business Certification Management – Base Year 3	\$0	\$0	\$0	\$8,000	\$8,000
Disadvantaged Business Enterprise Management – Base Year 1	\$0	\$2,000	\$0	\$0	\$2,000
Disadvantaged Business Enterprise Management – Base Year 2	\$0	\$0	\$2,000	\$0	\$2,000
Disadvantaged Business Enterprise Management – Base Year 3	\$0	\$0	\$0	\$2,000	\$2,000
One time Set Up & Configuration Fee	\$0	\$0	\$0	\$0	\$0
Insurance Certification Management – Base Year 1	\$0	\$6,000	\$0	\$0	\$6,000
Insurance Certification Management – Base Year 2	\$0	\$0	\$6,000	\$0	\$6,000
Insurance Certification Management – Base Year 3	\$0	\$0	\$0	\$6,000	\$6,000
One Time Set Up & Configuration Fee - Insurance Certification Management	\$1,000	\$0	\$0	\$0	\$0
LUMP SUM TOTAL	\$1,000	\$62,000	\$62,000	\$62,000	\$62,000

*Pricing shall remain fixed for Base Years 1-3. All subsequent pricing shall be determined in August of each year, reflecting the change (increase or decrease) in the Consumer Price Index (CPI) set forth in the United States Department of Labor, Bureau of Labor Statistics (reference: www.bls.gov, Item: Information Technology, hardware and services, Series ID: CUSR0000SEEE).



NOT ON EXCLUDED PARTIES LIST SYSTEM (REQUIRED)

Submit this form with the BID, failure to do so is grounds for disqualification.

The Bidder certifies that it is NOT on the Excluded Parties List System of ineligible firms for federally financed and assisted construction, materials, equipment contracts or services.

Bidder's Company Name	PlanetBids, Inc
Legal Structure (corp./partner/proprietor)	Corporation
Principle Office Address	5850 Canoga Ave., Suite 301
City, ST, Zip	Woodland Hills, CA 91367
Phone Number	818-992-1771
Fax Number	
E-Mail	alan@planetbids.com
Federal Employer Identification Number	95-4785128
Title of Person Authorized to Sign	CEO / Co-Founder
Print Name of Person Authorized to Sign	Alan Zavian
Date Signed and Authorized Signature	1-11-17 



DECLARATION OF NON-COLLUSION (REQUIRED)

Submit this form with the BID, failure to do so is grounds for disqualification.

I hereby declare (or affirm) under penalty of perjury that:

1. I am the bidder (if the bidder is an individual), a partner in the bid (if the bidder is a partnership), or an officer or employee of the bidding corporation and have authority to sign on its behalf (if the bidder is a corporation);
2. The bidder has independently produced the attached bid(s) without collusion, agreement, understanding or planned common course of action, with any other source, that would limit independent bidding competition;
3. The contents of the bid(s) have not been communicated by the bidder and or its employees and or agents to any person not an employee and or agent of the bidder and or its surety, on any bond furnished with the bid, and will not be communicated to any such person prior to the official opening of the bid, and
4. I have fully informed myself regarding the accuracy of the statements made in this declaration.

Bidder's Company Name PlanetBids, Inc.
(corp./partnership/sole proprietor) Corporation
Principle Office Address 5850 Canoga Ave., Suite 301
City, ST, Zip Woodland Hills, CA 91367
Phone Number 818-992-1771
Fax Number _____
E-mail Number alan@planetbids.com
Federal Employer I.D. Number 95-4785128
Title of Person Authorized to Sign CEO / Co-Founder
Print Name Authorized to Sign Alan Zavian
Authorized Signature _____
Date Signed 1/11/17



DEBARMENT, SUSPENSION, & OTHER RESPONSIBILITY MATTERS
(REQUIRED >\$25,000)

Submit this form with BID, failure to do so is grounds for disqualification.

One (1) form required of each bidder and subcontractor having greater than a \$25,000 share of the bid. U.S. Code, Title 31, § 6101 note and U.S. DOT regulations on "Debarment and Suspension," 49 C.F.R. Part 29.

The Participant (the bidder and potential contractor or potential subcontractor for a third party contract) certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a Federal department or agency;
2. Have not within a three-year period preceding this bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/bid had one or more public transactions (Federal, State, or local) terminated for cause or default.

An explanation must be attached to this certification regarding any exception(s).

The Primary Participant certifies that it has authority under State and local laws to comply with the subject assurances, the truthfulness and accuracy of the contents of this certification, any attached explanation submitted herewith, understands the applicability of 31 U.S.C. Sections 3801 *Et. Seq.* and that this certification has been legally made.

Bidder's Company Name	PlanetBids, Inc.
Legal Structure (corp./partner/proprietor)	Corporation
Select One	<input checked="" type="checkbox"/> Prime or <input type="checkbox"/> Subcontractor (submit after award)
Principle Office Address	5850 Canoga Ave., Suite 301
City, ST, Zip	Woodland Hills, CA 91367
Phone Number	818-992-1771
Fax Number	
E-Mail	alan@planetbids.com
Federal Employer Identification Number	95-4785128
Title of Person Authorized to Sign	CEO / Co-Founder
Print Name of Person Authorized to Sign	Alan Zavian
Date Signed and Authorized Signature	



LIST OF SUBCONTRACTORS AND DBES (REQUIRED $\geq \frac{1}{2}$ OF 1% SHARE OF BID)

Submit this form with the BID/Proposal, failure to do so is grounds for disqualification.

One (1) form required of each bidder and proposed subcontractor having greater than $\frac{1}{2}$ of 1% share of the bid. Government Code § 4100 on, "Subletting and Subcontract Fair Practices Act".

Company	PlanetBids, Inc. will not be using subcontractors.		
Address			
City, ST, Zip			
Phone Numbers/Email			
Contact Name/Title			
Type of Engagement			
Type of work to be performed			
Dollar value of participation	DBE qualified?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Company			
Address			
City, ST, Zip			
Phone Number			
Contact Name/Title			
Type of Engagement			
Type of work to be performed			
Dollar value of participation	DBE qualified?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Company			
Address			
City, ST, Zip			
Phone Number			
Contact Name/Title			
Type of Engagement			
Type of work to be performed			
Dollar value of participation	DBE qualified?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Total DBE participation	Dollars	% of Total Contract	
Bidder's/Proposer's Company Name	PlanetBids, Inc.		
Legal Structure (corp./partner/proprietor)	S Corporation		
Principle Office Address	5850 Canoga Ave., Suite 301		
City, ST, Zip	Woodland Hills, CA 91367		
Phone Number and E-Mail	818-992-1771, Solicitations@planetbids.com		
Federal Employer Identification Number	95-4785128		
Title of Person Authorized to Sign	CEO / Co-Founder		
Print Name of Person Authorized to Sign	Alan Zavian		
Date Signed and Authorized Signature	1-11-17		

DUPLICATE THIS FORM AS NECESSARY TO COMPLETE LIST (SIGN LAST ONE)



PROPOSED DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

*This form must be submitted with the BID/Proposal,
to have it considered during BID/Proposal evaluation.*

*The bidder/proposer intends to utilize the following DBE contractors on this project.
Signature of participating DBE is confirmation of willingness to participate on this project.*

Company	<u>None</u>
Address	
City, ST, Zip	
Phone Number	
Email	
Contact Name	
Type of work to be performed	
Dollar value of participation	
<hr/>	
Signature of participating DBE	
<hr/>	
Company	
Address	
City, ST, Zip	
Phone Number	
Email	
Contact Name	
Type of work to be performed	
Dollar value of participation	
<hr/>	
Signature of participating DBE	
<hr/>	
Company	
Address	
City, ST, Zip	
Phone Number	
Email	
Contact Name	
Type of work to be performed	
Dollar value of participation	
<hr/>	
Signature of participating DBE	
<hr/>	
Company	
Address	
City, ST, Zip	
Phone Number	
Email	
Contact Name	
Type of work to be performed	
Dollar value of participation	
<hr/>	
Signature of participating DBE	
<hr/>	

(DUPLICATE THIS FORM AS REQUIRED)