

BOARD OF DIRECTORS MEETING WEDNESDAY, APRIL 9, 2014 – 8:00 A.M. OMNITRANS METRO FACILITY 1700 WEST 5TH STREET SAN BERNARDINO, CA 92411

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

A. CALL TO ORDER

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

B. ANNOUNCEMENTS/PRESENTATIONS

1. Next Board Meeting: Wednesday, May 7, 2014, at 8:00 a.m. Omnitrans Metro Facility Board Room

C. COMMUNICATIONS FROM THE PUBLIC

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

D. POSSIBLE CONFLICT OF INTEREST ISSUES

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

3

E. CONSENT CALENDAR

The following items are expected to be routine and non-controversial. The Board will act upon them at one time without discussion, unless the Board directs that an item be held for further discussion under Agenda Item F, Discussion Items. Any person wishing to address consent items should address the Board under Agenda Item #E15, Action on Consent Calendar.

1.	Approve Board Minutes – March 5, 2014	5
2.	Receive and File Executive Committee Minutes – February 7, 2014	11
3.	Receive and File Administrative and Finance Committee Minutes – February 10, 2014	14
4.	Receive and File Plans and Programs Committee Minutes – January 22, 2014	19
5.	Receive and File Operations and Safety Committee Minutes – January 23, 2014	24
6.	Receive and File Agency Management Report – February 2014	28

Posted: April 2, 2014



BOARD OF DIRECTORS MEETING WEDNESDAY, APRIL 9, 2014 – 8:00 A.M. OMNITRANS METRO FACILITY 1700 WEST 5TH STREET SAN BERNARDINO, CA 92411

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E.	CONSENT CALENDAR CONTINUED	
	7. Receive and File Construction Progress Report No. 26 through February 20, 2014 – sbX E Street Corridor BRT Project	37
	8. Authorize CEO/General Manager to Execute Funding Agreement between Central City	50
	Lutheran Mission and Omnitrans	
	9. Authorize CEO/General Manager to Execute Funding Agreement between Victor Valley Transit Authority and Omnitrans	66
	10. Approve Amendment to Board Stipend Policy	82
	11. Adopt Risk Policy for Incurred But Not Reported (IBNR) Workers' Compensation and Liability Claims	84
	12. Authorize Award, Sole Source, Contract ITS14-225, Kronos/ImmixTechnology –	90
	Maintenance Agreement	
	13. Adopt Resolution No. 272-14, Authorizing CEO/General Manager to Execute and File Application and Requests for Reimbursement for Governor's Office of Homeland	92
	Security Fiscal Year 2014 California Transit Security Grant Program Funding 14. Press Articles and Letters of Interest to the Board	94
	15. Action on Consent Calendar	94
F.	 DISCUSSION ITEMS The following items do not legally require any public testimony, although the Chair may open the meeting for public input. 1. CEO/General Manager's Report 2. sbX Promotion Preview – Presentation 3. Authorize Award (Bench), Contract MNT14-24 (A-C), Towing Services 4. Authorize Release, Invitation for Bids IFB-MNT14-177, Miscellaneous Bus Parts 5. Authorize Release, Request for Proposals RFP-MNT14-222, Hazardous Waste 	117 N/A 120 228 230
	Treatment, Transportation and Disposal Services	230
	Treatment, Transportation and Disposar Services	
G.	PUBLIC HEARINGS	
	There is no Public Hearing scheduled.	
н	BOARD BUSINESS	
11.	Closed Session	
	1. Conference with Labor Negotiator, P. Scott Graham, concerning labor negotiations with Amalgamated Transit Union Local No. 1704 regarding the Coach Operator Unit, pursuant to Government Code Section 54957.6	
I.	REMARKS AND ANNOUNCEMENTS	
J.	ADJOURNMENT	

Posted: April 2, 2014



DATE: April 9, 2014

TO: Board Chair Alan Wapner and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Jennifer M. Sims, Director of Procurement

SUBJECT: DISCLOSURE(S) REGARDING RECOMMENDATIONS FOR

ACTION BY THE OMNITRANS BOARD OF DIRECTORS

FORM MOTION

Staff hereby provides a listing of principals and subcontractors associated with action items on the agenda for the Board of Director's Meeting scheduled April 9, 2014.

Item	Contract	Principals & Agents	Subcontractors
E12	Authorize Award, Sole Source	Kronos/ImmixTechnology	
	Contract ITS14-225	McClean, VA	
	Kronos/ImmixTechnology -	Aron J. Ain	
	Maintenance Agreement	Chief Executive Officer	
F3	Authorize Award (Bench)	Statewide Towing & Recovery, Inc.	n/a
	Contract MNT14-24(A-C)	Riverside, CA	
	Towing Services	Dana Sikes, General Manager	
		Bills and Wag's, Inc.	
		Ontario, CA	
		Tamila Kirk President	
		Dietz Towing, Inc	
		Ontario, CA	
		Terry Jordan, President	

PSG/JS



CONFLICT OF INTEREST FORM

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

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

BOARD MEMBER INFORMATION

BOARD MEMBER NAME	CITY/COUNTY NAME	MEETING DATE		
CAMPAIGN CONTRIBUTIONS				
1. I have a disqualifying campai	gn of over \$250 from			
and therefore I am abstaining	(Name of from participation on Agenda Item	Company and/or Individual), Subject:		
2. I have a disqualifying campai	gn of over \$250 from(Name of			
1 7 8 1 6	(Name of	Company and/or Individual)		
and therefore I am abstaining	from participation on Agenda Item	, Subject:		
3. I have a disqualifying campaign	gn of over \$250 from(Name of			
1.1 6 7 1	Company and/or Individual)			
and therefore I am abstaining	from participation on Agenda Item	ı, Subject:		
FINANCIAL INTEREST				
1. I have a financial interest of State income, real property interest or business position				
	State income, real proper	ty interest or business position		
	Identify company or property location	L		
2 11 (* * 1 * 4 * 6				
2. I have a financial interest of _	perty interest or business position			
	State filcome, real prop	berty interest or business position		
SIGNATURE				
Board Member Signatur		Date		



BOARD OF DIRECTORS' MEETING MINUTES OF MARCH 5, 2014

A. CALL TO ORDER

Chair Alan Wapner called the regular meeting of the Omnitrans Board of Directors to order at 8:02 a.m., Wednesday, March 5, 2014, at the Omnitrans Facility located at 1700 West 5th Street, San Bernardino, California.

- 1. Invocation
- 2. Pledge of Allegiance
- 3. Roll Call Self-introductions were made.

BOARD MEMBERS PRESENT

Mayor Pro Tem Alan Wapner, City of Ontario – Chair
Mayor Pro Tem Sam Spagnolo, City of Rancho Cucamonga – Vice Chair
Council Member Ron Dailey, City of Loma Linda
Mayor Carey Davis, City of San Bernardino
Mayor Paul Eaton, City of Montclair
Council Member Frank Gonzales, City of Colton
Supervisor Josie Gonzales, County of San Bernardino
Mayor Ed Graham, City of Chino Hills
Council Member Penny Lilburn, City of Highland
Mayor Ray Musser, City of Upland
Council Member Dick Riddell, City of Yucaipa
Mayor Pro Tem John Roberts, City of Fontana
Supervisor Janice Rutherford, County of San Bernardino
Mayor Walt Stanckiewitz, City of Grand Terrace
Mayor Dennis Yates, City of Chino

BOARD MEMBERS NOT PRESENT

Mayor Pro Tem Paul Foster, City of Redlands Supervisor Robert Lovingood, County of San Bernardino Supervisor Gary Ovitt, County of San Bernardino Council Member Ed Palmer, City of Rialto Supervisor James Ramos, County of San Bernardino

OMNITRANS' ADMINISTRATIVE STAFF PRESENT

Scott Graham, CEO/General Manager

Diane Caldera, Director of Operations

Jack Dooley, Director of Maintenance

Marge Ewing, Director of Human Resources

Sam Gibbs, Director of Internal Audit Services

Jacob Harms, Director of Information Technology

Jennifer Sims, Director of Procurement

Don Walker, Director of Finance

Wendy Williams, Director of Marketing

Anna Rahtz, Acting Director of Planning

Jeremiah Bryant, Service Planning & Scheduling Manager

Ray Maldonado, Employee Relations Manager

Maurice Mansion, Treasury Manager

Eugenia Pinheiro, Contracts Manager

James Deskus, IPMO Project Analyst

Andres Ramirez, Construction Manager

Joanne Cook, Contract Administrator

Christine Van Matre, Contract Administrator

Mark Crosby, Loss Prevention Supervisor

Oscar Tostado, Maintenance Manager

Krystal Turner, Contract Review Analyst

Alesia Atkinson, Contract Administrator

Janice Kuhn, Marketing Specialist

OTHER

Carol Greene, Legal Counsel

B. ANNOUNCEMENTS/PRESENTATIONS

Chair Wapner announced the next regular meeting is scheduled Wednesday, April 9, 2014, at 8:00 a.m. – NOTE DATE CHANGE

Presentations were given to the One Million Mile Award Winners, Cecil Stevens and Derman Redman. The Two Million Mile Award winners were not present.

C. COMMUNICATIONS FROM THE PUBLIC

Due to the numerous amounts of public comments, Board Chair Wapner directed that Public Comments be heard after agenda items were addressed and before going into Closed Session.

Jeff Caldwell, ATU President, presented a letter for record making it clear that there will be no BRT/SBX project start without a ratified Memorandum of Understanding as that sbX tentative agreement is contingent upon having a ratified MOU in place.

Arnold San Miguel, representing the Southern California Association of Governments (SCAG), announced that the nomination deadline for SCAG's Sustainability Award is March 21, 2014, and provided the Board with the Nomination packet as well as the registration information for the 2014 Regional Conference and General Assembly scheduled May 1-2, 2014.

Comments were received from the following individuals representing themselves, the local community and/or The Center for Community Action and Environmental Justice (CCAEJ): Susana Negrete, Angel Rodriguez, Flor Flores, Erika Galan, Teresa Flores-Lopez and Ericka Flores. All expressed concern and fear for the safety of the community as a result of Omnitrans' onsite Liquefied Natural Gas (LNG) tanks, and all demanded Omnitrans move the tanks to an industrial location.

D. Possible Conflict of Interest Issues

There were no Conflicts of Interest identified.

E. CONSENT CALENDAR

- 1. Approve Board Minutes February 5, 2014
- 2. Receive and File Executive Committee Minutes January 7, 2014
- 3. Receive and File Administrative & Finance Committee Minutes January 13, 2014
- 4. Receive and File Agency Management Report January 2014
- 5. Receive and File Construction Progress Report No, 25 through January 23, 2014 sbX E Street Corridor BRT Project
- 6. Receive and File Internal Audit Services Status Update
- 7. Receive and File Omnitrans' Fiscal Year Ended June 30, 2013, Audit Reports
- 8. Authorize Award, Contract PLN13-198, Ruben Campos Park Bus Stop Improvement
- 9. Press Articles and Letters of Interest of the Board
- 10. Action on Consent Calendar

M/S (Eaton/Spagnolo) that approved the Consent Calendar. Motion unanimous by members present.

F. DISCUSSION ITEMS

1) CEO/General Manager's Report

CEO/General Manager Graham reviewed the CEO/General Manager's Report.

Member J. Gonzales arrived at 8:10 a.m., Member F. Gonzales arrived at 8:13 a.m., and Member Musser arrived at 8:18 a.m.

2) Receive and file Operations Safety and Security Informational Brief

A brief presentation was provided by Jacob Harms, Director of Information Technology, on safety and security in effect, as well as, the new systems being put in place for the sbX project.

3) Execute Change Order No. 4 to Contract OPS10-1 Onboard Video Surveillance System (OBVSS)

M/S (Yates/Musser) that authorized the CEO/General Manager to execute Change Order No. 4 to Contract OPS10-1 to System Development Integration, LLC (SDI), of Chicago, IL, to extend the Onboard Video Surveillance System (OBVSS) Warranty and Maintenance for Omnitrans' forty-foot fixed-route fleet of buses through March 9, 2015, in an amount of \$111,600, increasing the Contract total amount to \$2,165,579, and the authority to extend the warranty and maintenance for up to two additional years, extending services to no later than March 9, 2017, in an amount not to exceed \$260,000, for a total not-to-exceed amount of \$371,600, increasing the Contract total not-to exceed amount to \$2,425,579. Motion unanimous by members present.

4) Authorize Award, Contract MNT14-81, Compressed Natural Gas (CNG) Fuel Cylinder Replacement

M/S (Eaton/Spagnolo) that authorized the CEO/General Manager to award Contract MNT14-81 to Complete Coach Works, Inc., of Riverside, CA, for the provision of CNG Fuel Cylinder Replacement for eleven buses for a contract not-to-exceed amount of \$462,117.70, plus a ten percent contingency of \$46,212, and a 3.27% Cost Allocation Plan (CAP) of \$16,623, for a total not-to-exceed amount of \$524,952.70. Motion unanimous by members present.

5) Authorize Award (Bench), Contract MNT14-133(A-B) Batteries

M/S (Stanckiewitz/Roberts) that authorized the CEO/General Manager to award Contracts MNT14-133A to H & H Auto Parts Wholesale of Arleta, CA, and MNT14-133B to Battery Systems Inc., of Fontana, CA, for the provision of Batteries for a three (3) year base period beginning March 5, 2014, and ending no later than March 4, 2017, with the authority to exercise two (2) single option years to extend the contract to no later than March 4, 2019, in an aggregate not to exceed amount of \$319,000, plus a 10% contingency of \$31,900, for a total not-to-exceed amount of \$350,900. Motion unanimous by members present.

6) Execute Amendment No. 3 to Contract OPS10-20 West Valley Paratransit Fuel Services

M/S (Musser/Wapner) that authorized the CEO/General Manager to execute Amendment No. 3 to Contract OPS10-20 with Poma Automated Fueling, Inc., of Bloomington, CA, in the amount of \$170,564 for Option Year Two, increasing the total Contract not-to-exceed amount to \$3,086,224 through June 30, 2014. Motion unanimous by members present.

7) Authorize Release, Invitation for Bids IFB-MNT14-69, Bus Parts Rebuild Services

M/S (Yates/Graham) that authorized the CEO/General Manager to release Invitation for Bids IFB-MNT14-69, for the provision of Bus Parts Rebuild Services for a two (2) year base period, and three (3) single option years beginning July 7, 2014, and ending no later than June 30, 2019. Motion unanimous by members present.

8) Authorize Release, Invitation for Bids IFB-MNT14-128, Bus Window Replacement

M/S (Yates/Graham) that authorized the CEO/General Manager to release Invitation for Bids IFB-MNT14-128, for the provision of Bus Window Replacement for a two (2) year base period, and three (3) single option years beginning July 7, 2014, and ending no later than June 30, 2019. Motion unanimous by members present.

9) Authorize Release, Invitation for Bids IFB-OPS14-178, Diesel and Unleaded fuels

M/S (Yates/Graham) that authorized the CEO/General Manager to release Invitation for Bids IFB-OPS14-178, for the provision of bulk diesel and unleaded fuels for Omnitrans' East Valley, West Valley, and "I" Street Facilities for a two (2) year base period, and three (3) single option years beginning July 1, 2014, and ending no later than June 30, 2019. Motion unanimous by members present.

10) Approve CEO/General Manager Employment Agreement

M/S (J. Gonzales/Eaton) that approved the Employment Agreement for P. Scott Graham for the position of Chief Executive Officer/General Manager, effective February 5, 2014. Motion unanimous by members present.

G. PUBLIC HEARINGS

There were no Public Hearings scheduled.

H. BOARD BUSINESS

The Board adjourned to Closed Session at 9:05 a.m.

1. Conference with Labor Negotiator, P. Scott Graham, concerning labor negotiations with Amalgamated Transit Union Local No. 1704 regarding the Coach Operator Unit, pursuant to Government Code Section 54957.6

The Board reconvened to Open Session at 9:20 a.m.

Board Chair Wapner announced that there was no reportable action taken in Closed Session.

I. REMARKS AND ANNOUNCEMENTS

J. ADJOURNMENT

The Board adjourned at 9:23 a.m.	The next regu	lar meeting is scl	heduled for Ap	ril 9, 2014, at
8:00 a.m., with location posted on	the Omnitran	s website and at	Omnitrans' Sa	n Bernardino
Metro Facility.				

repared by:		
ourdes Sandoval	Administrative Secretary	



EXECUTIVE COMMITTEE MEETING MINUTES FEBRUARY 7, 2014

A. CALL TO ORDER

The Executive Committee meeting was called to order by Chair Alan Wapner at 9:10 a.m., Friday, February 7, 2014.

COMMITTEE MEMBERS ATTENDING

Mayor Pro Tem Alan Wapner, Board Chair Mayor Pro Tem Sam Spagnolo, Vice Chair Council Member Penny Lilburn, City of Highland Mayor Pat Morris, City of San Bernardino Council Member Dick Riddell, City of Yucaipa

OMNITRANS STAFF ATTENDING

P. Scott Graham, CEO/General Manager

B. ANNOUNCEMENTS/PRESENTATIONS

1. Next Committee Meeting: Friday, March 7, 2014, 9:00 a.m.

Omnitrans Metro Facility

C. COMMUNICATIONS FROM THE PUBLIC

There were no communications from the public.

D. Possible Conflict of Interest Issues

There were no Conflict of Interest Issues.

E. DISCUSSION ITEMS

1. Approve Executive Committee Minutes – January 7, 2014

M/S (Morris/Spagnolo) that approved the Executive Committee Minutes of January 7, 2014. Motion was unanimous by members present.

2. Operations Safety & Security Informational Brief – Presentation

At the request of Board Vice Chair Spagnolo, CEO/General Manager Graham provided a condensed version of the presentation that was presented to the Operations and Safety Committee in January. Vice Chair Spagnolo has also suggested that this presentation be presented to the full Board of Directors.

The presentation reviewed safety, security and technology improvements completed in recent years and also touched on training for Coach Operators operating the 60-foot articulated coaches and the responsibilities of Field Supervisors and Dispatchers.

Board Chair Wapner stressed the importance of developing a mission statement that highlights the Agency's safety philosophy. The Committee also discussed the potential threats to employees, Omnitrans' facilities, and the riding public and how best to balance the right investment between protecting employees, facilities, and passengers.

The Committee discussed the Closed Circuit Television (CCTV) Station and the monitoring of the sbX stations with a suggestion to ensure those that monitor the cameras have the appropriate training and to consider having two individuals at the monitoring stations at all times to ensure the appropriate checks and balances are in place.

CEO/General Manager Graham expanded on the use of CCTV station, Omnitrans' plans to enter into Memorandums of Understanding with the police departments, how the information can be accessed by law enforcement, and the importance of the added value of having an extra set of eyes at the stations to help the riding public feel secure. He also announced that Omnitrans is looking into adding the 'talk back' system at the sbX Stations with available sbX project funds to deter incidents before they occur. The system is approximately \$500,000 and will be presented to the Board of Directors for approval in the near future. Also, if FTA and Board approval is received to sell the Mid-Valley property, some of the funds from the sale of the property could be invested to use this technology in cities throughout Omnitrans' service area so that the public can see the investment made toward their security. In addition to the cameras, Omnitrans' Field Supervisors will soon take classes to issue misdemeanor citations for fare evaders and will be wearing jackets labeled Fare Inspector, which will be advertised to the passengers. It is believed that this will add another level of security, deter culprits, and make riders feel safer while riding Omnitrans.

The Committee requested that this presentation be provided to the Board, to include a copy of the PowerPoint being included in the agenda packet, and the direction that it be reviewed with law enforcement to ensure that no safety sensitive information is presented.

F. BOARD BUSINESS

The Committee adjourned to Closed Session at 10:01 a.m.

Closed Session

1. Existing Litigation, pursuant to Government Code Section 54956.9(a), Robert Miller v. Omnitrans, San Bernardino County Superior Court, Case Number CIVDS 1400420

Open Session

The Committee reconvened to Open Session at 10:07 a.m.

There was no reportable action taken during Closed Session.

G. REMARKS AND ANNOUNCEMENTS

Due to a scheduled trip of SANBAG leadership to Washington, DC, SANBAG has rescheduled its April Board Meeting to April 9, the second Wednesday of the month. Therefore, to make it more convenient for those who serve on the Omnitrans and the SANBAG Board, Omnitrans will also reschedule its Board Meeting to April 9, with the announcement made at the March Board Meeting.

H. ADJOURNMENT

The Executive Committee adjourned at 10:30 a.m. The next Executive Committee Meeting is scheduled Friday, March 7, 2014, at 9:00 a.m., with location posted on the Omnitrans website and at the Omnitrans San Bernardino Metro Facility.

Prepared by:	
Vialri Dannatt	Assistant to CFO/General Manager



ADMINISTRATIVE & FINANCE COMMITTEE MINUTES OF FEBRUARY 10, 2014

A. CALL TO ORDER

The Administrative & Finance Committee meeting was called to order by Committee Chair Pat Morris at 11:00 a.m., February 10, 2014.

Committee Members Present

Mayor Pat Morris, City of San Bernardino – Committee Chair Mayor Paul Eaton, City of Montclair Council Member Frank Gonzales, City of Colton Mayor Ed Graham, City of Chino Hills Mayor Ray Musser, City of Upland Supervisor Gary Ovitt, County of San Bernardino Council Member Dick Riddell, City of Yucaipa Mayor Pro Tem John Roberts, City of Fontana Mayor Walt Stanckiewitz, City of Grand Terrace

Committee Members Not Present

Mayor Pro Tem Alan Wapner, City of Ontario

Omnitrans Administrative Staff Present

Diane Caldera, Interim Director of Operations
Jack Dooley, Director of Maintenance
Marge Ewing, Director of Human Resources
Sam Gibbs, Director of Internal Audit Services
Jacob Harms, Director of Information Technology
Anna Rahtz, Acting Director of Planning & Development Services
Don Walker, Director of Finance
Wendy Williams, Director of Marketing
Andres Ramirez, sbX Construction Manager
Jim Deskus, sbX Project Analyst
Maurice Mansion, Treasury Manager
Mark Crosby, Loss Prevention and Security Supervisor

B. ANNOUNCEMENTS/PRESENTATIONS

The next Committee Meeting is scheduled Thursday, March 13, 2014, at 8:00 a.m. (Note: Committee adopted new meeting schedule – See Discussion Item #E6.)

C. COMMUNICATION FROM THE PUBLIC

There were no comments from the public.

D. Possible Conflicts of Interest Issues

There were no conflicts of interest issues identified.

E. DISCUSSION ITEMS

1. Approve Administrative & Finance Committee Minutes – January 13, 2014

M/S (Stanckiewitz/Eaton) that approved the Committee minutes of January 13, 2014. Motion was unanimous by members present.

2. Receive & File Forward Fuel Purchase Program Update for February 2014

Director of Finance Walker provided the monthly Forward Fuel Purchase Update for February, reporting that 45 percent of the Agency's natural gas is hedged. Omnitrans will recognize a \$27,600 gain on the hedge position in February. For the period of February 2012 through February 2014, Omnitrans has recognized a total gain of \$5,980 on settled hedge positions. And, for the months that remain open on the current contract, March through June 2014, there is an unrecognized gain of \$59,700. Staff will bring forward a recommendation to the Committee as to whether to extend the program or not prior to June 2014.

This item was received and filed.

3. Receive & Forward to Board of Directors, Construction Progress Report No. 25 through January 23, 2014 – sbX E Street Corridor BRT Project

In light of the comments received at the Board Meeting on February 5, 2014, related to the fuel tanks, Committee Chair Morris invited Committee Members to tour the VMF after the conclusion of the meeting.

sbX Construction Manager Ramirez presented an update on the progress of the sbX Corridor and the Vehicle Maintenance Facility (VMF). The VMF is 33 percent complete, with final demolition in progress and work continuing at all buildings. The sbX corridor is 96 percent complete. Features at each station include: polycarbonate panels with an anti-graffiti coating, seating, bike racks, landscaping, solar powered lights, and ticket vending machines. There are also: advertising panels, variable message signs, bus lane only signs, pylon signs, artwork, map case with an information phone (P-Tel) that connects directly to the Omnitrans Route Information line, and an emergency

telephone (E-Tel), that connects directly to Cal State Police, City of San Bernardino Police Dispatch or Loma Linda Police Dispatch, depending on location, guard rails and closed circuit television cameras. Project remains within the projected budget of \$191.7M, with \$145.6M expended to date, and a \$189.6 estimated cost at completion. With over 395,000 combined hours logged with both projects, lost time injuries remain at zero.

The next steps for the corridor include traffic signal timing implementation at each intersection with level two and three testing to follow, which will include the vehicle actually sending the request for traffic signal prioritization. Emergency vehicles will still have override priority and should a power outage occur, the lights would flash using battery backup power. Development of the punch list for action by the contractor is also in process.

The next steps for the VMF include concrete placement for Bus Lifts, over-excavation and re-compaction at Building B and building foundations and relocation of the buffer tanks.

Member Musser asked staff to look at the direction the Ticket Vending Machines face and consider alternatives to ensure that passengers can read the display screens in direct sunlight.

This item was received by the Committee and will be forwarded to the Board of Directors for receipt and file.

4. Recommend to Board of Directors, Receive and File Internal Audit Services Status Update

Internal Audit Director Samuel Gibbs presented the update on his activities conducted between July and December 2013, including:

Procurement System Review (PSR) – All deficiencies identified in the PSR were individually addressed and Omnitrans complied with all of FTA's requirements; FTA has responded recognizing all the improvements made.

P-Card Process – Review of the P-Card process shows the overall process is sound and the right controls are in place. Recommendation made to review policy and procedures annually, as well as educating those with P-Cards to ensure that items not authorized, such as computer related items, are not purchased using the P-Card.

Employee Recreation Committee (ERC) – The ERC uses the vending machine money to fund planned trips for ERC members such as to Disneyland, or for golf or bowling, in addition to using some of the funds in recent years towards the annual holiday party. The audit conducted this year resulted in no recommendations as the Committee had implemented all prior audit recommendations.

Procurement Protests – A review of all the documents, current processes and policies resulted in all four protests found to be without merit. Further, during the protest review, if areas were identified that would improve our current processes or strengthen our policies, recommendations were presented to the Director of Procurement for action.

Succession Planning – Omnitrans received a \$340,000 workforce development grant from the Federal Transit Administration. These funds will be used primarily to provide growth opportunities in the region to blue collar workers. A Workforce Development Team is working to set up the first class of coach operator training. There may also be an opportunity to use some of the funds for internships. If the program is successful, Omnitrans will apply for additional funds to address senior level management succession planning.

5. Recommend to Board of Directors, Receive and File Omnitrans' Fiscal Year Ended June 30, 2013, Audit Reports

Director of Finance Don Walker introduced Roger Alfaro, Partner with Vavrinek, Trine Day & Company, who summarized the results of the Fiscal Year Ended June 30, 2013 Audit Reports.

Comprehensive Annual Financial Report (CAFR) – The CAFR contains basic financial statements and required footnote disclosures – An Unmodified Opinion (clean opinion) was issued which is the highest level of assurance attainable.

One material weakness was identified in internal controls with respect to financial reporting and has been included in the financial and single audit report and an Unmodified Opinion (clean opinion) was issued with respect to Federal Compliance Testing for major programs. There were two instances identified with respect to financial reporting.

Finding 2013-001 relates to two issues:

1. CNG Fuel Tax Credits - Omnitrans had earned and identified the revenue, but the credits were recorded as deferred revenue until costs with planned projects were incurred.

Director of Finance Don Walker explained that last year, Omnitrans had received approval from the Board of Directors to use the CNG Fuel Tax Credit as a match for capital projects, for operating costs, or both, which is why it was booked at deferred revenue. However, as a result of VTD's recommendation, the CNG Fuel Tax credit was recognized at fiscal yearend. Omnitrans continued to recognize the revenue as recommended through program end at December 2013.

2. Incurred But Not Reported (IBNR) Claims – Omnitrans inconsistently applied the application of confidence levels and the recognition of liability in 2013 compared to prior year. As a result, Omnitrans reported part of the adjustment and the remaining amount is included in the financial statement as an uncorrected misstatement.

Director Walker said that a proposed IBNR policy was to be presented to the Committee at this meeting; however, in the absence of the CEO/General Manager, it will be presented to the Committee in March.

Single Audit Report on Federal Awards – The Single Audit contains two Independent Auditors' Report: Internal Control Over Financial Reporting and On Compliance and

Administrative & Finance Committee Minutes February 10, 2014 – Page 5

Other Matters, and On Compliance for Each Major Program, Report on Internal Control Over Compliance and Report on the Schedule of Expenditures of Federal Awards.

Related to the test of the major program selected for the fiscal year, one instance identified pertains to the fact that specific requirements were not met on pass through of funds; such as the inclusion of the Federal Domestic Assistance title and number, award name and number, award years, and dollar amounts not being provided to the sub-recipients.

Director Walker explained that this issue relates to the San Bernardino Transit Center wherein with the initial grant application, the project was Omnitrans, however, when the project transferred to SANBAG, Omnitrans had not treated it as a pass through. This was corrected with the second grant and SANBAG was established as a pass through agency and will be recognized as such going forward.

SAS 114, Other Qualitative Matters – No difficulties were encountered in the course of performing the audit, accounting policies used were found to be consistent from one period to the next, and it is recognized that certain items contained in the financial statements are significant estimates.

6. Consider Schedule Change for Monthly Committee Meeting – Discussion

As many of the Committee Members also attend SANBAG's Metro Valley Study Session, incoming Committee Chair Graham requested the Committee consider rescheduling Omnitrans' Administrative & Finance Committee meeting to coincide with SANBAG's Metro Valley Study Session.

M/S (Graham/Roberts) that rescheduled the Administrative & Finance Committee Meeting to 8:00 a.m. on the same day of SANBAG's Metro Valley Study Session. Motion unanimous by members present.

F. REMARKS AND ANNOUNCEMENTS

Mayor Morris thanked fellow Committee Members for their commitment to public service and to Omnitrans staff for making Omnitrans a great transit system.

G. ADJOURNMENT

The Administrative & Finance Committee meeting adjourned at 12:00 p.m. The next Administrative & Finance Committee Meeting is scheduled Thursday, March 13, 2014, at 8:00 a.m., with location posted on the Omnitrans website and at Omnitrans' San Bernardino Metro Facility.

Prepared by:		
Vicki Dennett, Ass	sistant to CEO/General Manager	



ITEM#	E4
ITEM#	E4

PLANS AND PROGRAMS COMMITTEE MINUTES JANUARY 22, 2014

A. CALL TO ORDER

The Plans & Programs Committee Meeting was called to order by Committee Chair Penny Lilburn at 2:10 p.m., January 22, 2014.

Committee Members Present

Council Member Penny Lilburn, City of Highland – Committee Chair Council Member Ron Dailey, City of Loma Linda Council Member Dick Riddell, City of Yucaipa Supervisor Janice Rutherford, County of San Bernardino Mayor Pro Tem Sam Spagnolo, City of Rancho Cucamonga

Committee Members Not Present

Mayor Pro Tem Paul Foster, City of Redlands Mayor Pro Tem Alan Wapner, City of Ontario Mayor Dennis Yates, City of Chino

Omnitrans Administrative Staff Present

Scott Graham, Interim CEO/General Manager
Diane Caldera, Interim Director of Operations
Samuel Gibbs, Director of Internal Audit
Jacob Harms, Director of Information Technology
Anna Rahtz, Acting Director of Planning
Jennifer Sims, Director of Procurement
Wendy Williams, Director of Marketing
Jeremiah Bryant, Service Planning & Scheduling Manager
Brenda Ramirez, Planner II
Scott Begg, Planner I

B. ANNOUNCEMENTS/PRESENTATIONS

There were no announcements.

C. COMMUNICATION FROM THE PUBLIC

There were no comments from the public.

D. Possible Conflict of Interest Issues

There were no conflicts of interest identified.

E. DISCUSSION ITEMS

1. Approve Plans & Programs Committee Minutes – December 3, 2013

M/S (Spagnolo/Riddell) that approved the minutes of December 3, 2013. Motion was unanimous by members present.

2. OmniConnects Short Range Transit Plan

Interim Director of Planning Anna Rahtz explained the purpose of the meeting is to receive input on major policy decisions from the Committee in the development of the Fiscal Year 2015-2020 Short Range Transit Plan (SRTP), which outlines what Omnitrans wants to accomplish in the next six years, framed within the existing financial constraints. The SRTP also includes an unconstrained plan for services and projects for which we can seek funding. The decisions made today will set the framework for the plan.

The established goals in the current FY2009-2014 Short Range Transit Plan adopted by the Board are: Governance, Operations, Workforce, Marketing, and Technology. Goals for consideration developed by staff for the FY2015-2020 SRTP include:

- Deliver safe, reliable, clean, frequent, convenient, comfortable and equitable service.
- Enhance Omnitrans' network design to increase ridership and minimize costs by reducing redundancy.
- Minimize impact to existing riders while seeking opportunities to expand ridership.
- Support local economy by providing connections to where people want to go.
- Maximize cost recovery while charging a fair fare.
- Support initiatives that are financially and environmentally sustainable in the short and long term.
- Expand, maintain, and improve existing vehicles, facilities and passenger amenities.

Committee Members commented that the goals are more mission statements than goals and that, as presented, are difficult to measure.

Planning and Scheduling Manager Jeremiah Bryant presented information for which staff needs Committee direction to move forward in the development of the SRTP. Committee direction is needed in the areas of: 1) defining productivity-oriented service; and 2) whether Omnitrans should maintain the 65/35 delivery standard approved by the Board of Directors in 2001.

In 2001, when the Board approved changing the service split to 65% productivity and 35% coverage, the intent was that any new service added would be productivity-oriented, with no service coverage expansion. At that time, the service split was at 50/50. In 2014, the Agency is still at the 50/50 coverage split.

Committee Members expressed concern that the Agency has not moved from the 50/50 coverage split that existed since 2001, questioned why this is the first time they have been made aware of this fact, and whether it is reasonable to believe the 65/35 split is achievable.

Staff explained that in 2002, 626,000 hours of service were provided and until 2006, service was added to move toward that 65/35 split. However, since 2006, the Agency has experienced two or three service reductions and in 2014, 5,000 less service hours are planned than what was provided in 2002. Further, the Agency is not going to see an increase in resources to add new service through 2020.

Using the existing definition of productive service, an illustration of a productive route and coverage route was provided and how changing the definition of productive service to 20-minute frequency or better would provide a subsidy of \$2.15 per passenger, and a subsidy of \$3.43 per passenger on a coverage route.

The fundamental questions are: Does Omnitrans want to stay with the current coverage split of 50/50 and not take advantage of the differential in subsidy by changing the definition of productive service? Or does Omnitrans want to reconfigure the existing route system to reduce duplication by consolidating routes and shifting the resources saved to more productive routes in order to move to the 65/35 split?

Based on response by Committee Members, staff's understanding of the Committee's desire is to move toward the 65/35 split; therefore staff will bring forward recommendations to eliminate duplication throughout the system at the next Committee meeting.

Next, staff discussed moving from the current across the board standard of 25 passengers per hour to developing appropriate standards for productive and coverage routes on a tier system by using a stop light approach. If using the stop light approach, routes operating in the green would be meeting all standards, routes operating in yellow would be meeting most of the standards, and routes operating in red would be scheduled for significant reduction in service or elimination.

Once the new route standard and the new route structure are presented to and approved by the Committee, hearings will be held to receive public input on all recommended changes.

Interim CEO/General Manager Scott Graham assured the members that, while Omnitrans won't immediately get to the 65/35 coverage split, he is confident that by eliminating duplication and addressing the poor performing routes, the Committee will see significant movement toward the 65/35 split next year. To that end, staff will provide route level performance statistics to the Committee on either a quarterly or semi-annual basis.

The Committee presented several questions regarding the size and frequency of fare increases, as well as the possible elimination of cash fares and use of pre-paid fare media only. These issues will be discussed at the next Plans and Programs Committee meeting.

On the subject of Governance Structure, Interim CEO/General Manager Graham indicated that additional information needs to be prepared and presented to the Board to allow for a more in-depth discussion to occur. This issue may be discussed at the next Plans and Programs meeting or a separate meeting may be scheduled.

Ms. Rahtz discussed the unconstrained plan of the SRTP. As there is a moratorium on Measure I Bus Rapid Transit (BRT) spending on new corridors until 2019, SANBAG has recommended that Omnitrans used a phased implementation approach of limited stop routes within available resources in the near term. This phased approach could include transit signal priority or queue jump lanes that would increase route speed, but at a much lower cost than a full BRT. Toward this end and to build on studies already conducted, staff sought Committee support to move forward to include Foothill Corridor and the West Valley Connector in the unconstrained plan of the SRTP. By including these two projects in the SRTP, staff could continue developing funding options and working the cities and stakeholders to refine the corridors.

In response to concerns expressed by Committee Members as to the cost of the two Corridors given Omnitrans' funding constraints over the next six years, Mr. Graham stated that these two projects have the support of the Executive Director at SANBAG, and also briefed the members on Omnitrans desire to sell the Mid-Valley property, upon approval of the Federal Transit Administration and the Board of Directors, and use the funds to give back to the community by improving public transit, such as the West Valley Connector or the Foothill Corridor. In response to the concerns regarding the goals and the difficulty of measuring the results, he assured the members that the goals are measurable and that metrics will be developed to measure progress.

3. Set Next Plans and Programs Committee Meeting

The Committee Members will be polled to set the next Committee Meeting in February.

Plans & Programs Committee Minutes January 22, 2014 – Page 5

F. ADJOURNMENT

The Plans & Programs Committee meeting adjourned at 3:47 p.m. The next Committee Meeting will be scheduled in February and posted at Omnitrans and on the Omnitrans website.

Prepared by:	
Vicki Dennett Assistant to CE	O/General Manager



OPERATIONS AND SAFETY COMMITTEE MINUTES JANUARY 23, 2014

A. CALL TO ORDER

The Operations and Safety Committee Meeting was called to order by Committee Chair Sam Spagnolo at 11:03 a.m., January 23, 2014.

Committee Members Present

Mayor Pro Tem, Sam Spagnolo – Committee Chair Council Member Dick Riddell, City of Yucaipa Council Member John Roberts, City of Fontana Mayor Ray Musser, City of Upland

Committee Members Not Present

Mayor Pro Tem Alan Wapner, City of Ontario Council Member Ed Palmer, City of Rialto Supervisor Josie Gonzales, County of San Bernardino Supervisor James Ramos, County of San Bernardino

Omnitrans Administrative Staff Present

Scott Graham, Interim CEO/General Manager
Diane Caldera, Interim Director of Operations
Jack Dooley, Director of Maintenance
Marjorie Ewing, Director of Human Resources
Samuel Gibbs, Director of Internal Audit
Jacob Harms, Director of Information Technology
Anna Rahtz, Acting Director of Planning
Jennifer Sims, Director of Procurement
Don Walker, Director of Finance
Wendy Williams, Director of Marketing
Jeremiah Bryant, Service Planning & Scheduling Manager
Maurice Mansion, Treasury Manager
Andres Ramirez, Construction Manager
James Deskus, Project Analyst
Mark Crosby, Loss Prevention Supervisor

B. ANNOUNCEMENTS/PRESENTATIONS

There were no announcements.

C. COMMUNICATION FROM THE PUBLIC

There were no comments from the public.

D. Possible Conflict of Interest Issues

There were no conflicts of interest identified.

E. DISCUSSION ITEMS

1. Recommend to Board of Directors, Adoption of Proposed Revisions to Personnel Policy #802, Employee Injury and Illness Prevention Program and Personnel Policy #803, Work Place and Transit System Security

Marjorie Ewing explained recent OSHA (Occupational Safety and Health Administration) training recommended that a review of safety and security training policies occur annually. As a result, the review of Omnitrans' policies highlighted the need to streamline the policies, while ensuring compliance. The recommended changes to Policy #802 and Policy #803 eliminate language not required; reduce Omnitrans' liability, and maintain compliance with all required regulations.

Although a quorum was not present, the Members present recommended the policies for adoption by the Board of Directors.

2. Operations Safety & Security Informational Brief – Presentation

Interim CEO/General Manager Scott Graham introduced Director of Human Resources Marjorie Ewing, Interim Director of Operations Diane Caldera, and Director of Information Technology Jacob Harms, who would be providing an overview of safety and security, operations and IT functions that are needed to support the Agency's daily operation.

Diane Caldera provided information on safety and security enhancements made at Omnitrans since 2010, at which time a consultant conducted a security risk vulnerability assessment. The results of the assessment overall found that Omnitrans had an excellent safety training program and a good safety record. In addition, the Agency continues to enhance the operator and passenger safety program by adding audio and video recording technology, posting safety advisory signage, and training for both the Coach Operators and Field Supervisors on how to deter physical attacks.

Marjorie Ewing provided a snapshot of the CCTV (closed circuit television) control center located at the San Bernardino facility. The control center has two large wall-mounted plasmas with view of 12 cameras that can be enlarged for more detailed viewing

on the desk monitors. The cameras will be monitored 24/7 and covers the San Bernardino, Montclair and I Street facilities, as well as the sbX E Street Corridor.

The sbX E Street Corridor has between 3-7 cameras at each platform, a public address system, and a message system that can be displayed at one or all stations.

Omnitrans is working with legal counsel in developing agreements with Cal State, the cities of San Bernardino and Loma Linda, the VA, and the County Sheriff to police the stations along the corridor.

Table top exercises have been completed with the cities, fire, and police on various incidents and emergencies that could occur in transit, and also have and will continue to participate in VIPR (Visible Intermodal Prevention) training.

Jacob Harms presented information on IT technology improvements made to bus operations from 2001 to present day, and what is projected for 2014. In 2001, Dispatch was only able to speak to Coach Operators on board the bus by 'Open Mic', which meant all Coach Operators would hear the conversation and video recordings had to be manually pulled from the hard drive and the video was in black and white. Today, Dispatch can speak to one or all Coach Operators by using 'RTT' (Request to Talk) and can also submit live data feeds, which can be accessed by Field Supervisors if close enough to the bus, and video is downloaded automatically when the bus arrives back at the yard. The Agency is currently in the process of upgrading the Radio and Mux's (multiplexing feeds), which will allow data to be transmitted in both analog and digital formats. Specific to sbX buses, Omnitrans will offer free Wi-Fi on board and at the stations, ticket vending machines, traffic signal prioritization, an E-Tel Blue Phone, which calls directly to Police Dispatch, and the P-Tel, which routes directly to the Omnitrans call center.

Lastly, Diane briefed the Committee on Field Operations and what goes into training for the Coach Operators, Field Supervisors and Dispatchers in preparation for the go-live of the sbX E Street Corridor.

Committee Chair Spagnolo requested staff to produce a brief video that highlights each department for presentation to the Board of Directors. Committee Member Riddell suggested that the Committee be provided a demo of the CCTV station at the next meeting.

3. Set Next Operations & Safety Committee Meeting

At direction of the Committee Chair, Committee Members will be polled to set the next scheduled meeting.

F. REMARKS AND ANNOUNCEMENTS

Committee Chair Spagnolo, with the support of the Committee Members, requested Omnitrans to look into achieving the Cal OSHA Voluntary Protection Program Certification.

Operations and Safety Committee Minutes January 23, 2014 – Page 4

G. ADJOURNMENT

The Operations and Safety Committee adjourned at 11:43 a.m. The next Committee Meeting will be scheduled and posted at Omnitrans and on the Omnitrans website.

Prepared by:

Vicki Dennett, Assistant to CEO/General Manager



ITEM	#	E6

FEBRUARY 2014 FISCAL YEAR 2014

Agency Results

Operating Revenue

February total Operating Revenue of \$5,970,640 is \$6,800 over budget. Year-to-Date (YTD) Operating Revenue of \$48,537,751 is \$827,024 over budget. The positive current month variance is driven by passenger revenue being higher than planned. The YTD variance is principally driven by advertising income and CNG fuel tax revenue.

Operating Expense

February Operating Expense of \$5,532,496 is \$431,345 or 7% under budget. YTD Operating Expense of \$44,367,682 is \$3,343,046 or 7% under budget. The positive current month and YTD variances are driven by labor, fringe benefits, material and supplies, and occupancy all coming in under budget. We anticipate that year-end expenditures and accruals will reduce this variance.

Ridership

During the month of February, Omnitrans carried a total of 1,278,292 passengers. This consisted of 1,239,031 on Fixed Route service and 39,261 on Demand Response routes. YTD Ridership is 10,542,917, which reflects a total system decrease of 2.7% when compared to the same period last year.

Revenue Hours/Revenue Miles

During the month of February, Omnitrans provided a total of 62,267 revenue hours reflecting a decrease of 1.09% versus the same period last year. Omnitrans logged a total of 836,282 revenue miles during the month, reflecting a decrease of 2.16% when compared to same period last year. YTD Omnitrans provided a total of 527,319 revenue hours reflecting a decrease of .70% versus the same period last year. Also, YTD Omnitrans logged a total of 7,223,928 revenue miles reflecting a decrease of 1.08% when compared to same period last year.

Farebox Recovery Ratio

February farebox revenue for Fixed Route/Omnilink is \$1,197,436 versus \$1,098,817 for the same period last year. This is an increase of 8.98%. The farebox recovery ratio for the month is 26.86%. YTD farebox revenue for Fixed Route/Omnilink is \$8,860,977 versus \$8,775,247 for the same period last year. This is an increase of .98%. YTD farebox recovery ratio is 24.53%.

February farebox revenue for Access is \$122,309 versus \$131,8465 for the same period last year. This is a decrease of 7.23%. Farebox recovery ratio for the month is 11.86%. YTD farebox revenue for Access is \$1,028,480 versus \$1,027,154 for the same period last year. This is an increase of .13%. YTD farebox recovery ratio is 12.91%.

Financials

Total Salaries and Benefits of \$3,055,411 are \$402,506 under budget for the month of February. YTD Salaries and Benefits of \$26,043,973 are \$1,619,365 or 6% under budget. The positive current month and YTD variance is primarily driven by headcount being less than planned. We anticipate this variance to flatten as we build up headcount for the sbX service and book year-end accruals.

Total Services are \$166,798 or \$98,996 under budget in February. YTD Total Services are \$1,362,154 or \$689,205 under budget. The positive current month and YTD variances are driven by professional services being less than planned.

Materials and Supplies are \$731,967 or \$37,740 under budget in February. YTD Materials and Supplies are \$5,481,111 or \$676,544 under budget. The positive monthly and YTD variances are driven by CNG fuel and gasoline being less than planned.

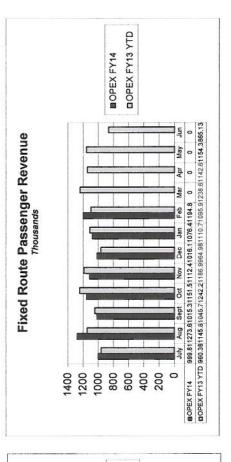
Purchased Transportation is \$768,921 or \$8,609 over budget in February. YTD Purchased Transportation is \$5,879,860 or \$202,637 under budget. February had a minor negative current month variance. The YTD variance is driven by favorable pricing in the current contract based on milestones being met.

Other Expenses are \$766,208 or \$90,997 over budget in February. YTD Other Expenses are \$5,314,005 or \$162,686 under budget. The negative current month variance is principally driven by the timing of printing and advertising for the agency. The positive YTD variance is driven by the timing of repairs and maintenance and payments related to software maintenance contracts making occupancy cost lower than planned.

PERFORMANCE STATISTICS FISCAL YEAR 2014 February 2014

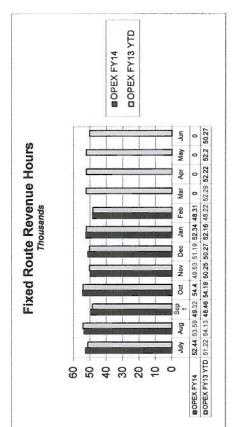
			YR/YR			YR/YR
	Current Month		inc/(dec) Year-T		o-Date	inc/(dec)
	February 2014	February 2013	CURRENT	February 2014	February 2013	YTD
Total Passenger Revenue & Subsidy				ASSESSMENT OF THE PARTY OF THE		
Fixed Route	\$1,194,775	\$1,095,855	9.0%	\$8,839,779	\$8,752,547	1.0%
Demand Response	\$124,970	\$134,808	-7.3%	\$1,049,588	\$1,049,853	0.0%
Total Passengers						
Fixed Route	1,239,031	1,296,896	-4.5%	10,216,070	10,507,228	-2.8%
Demand Response	39,261	38,815	1.1%	326,847	324,592	0.7%
Farebox Recovery Ratio						
Fixed Route/OmniLink	26.86%	26.67%		24.53%	24.26%	
Access	11.86%	13.78%		12.91%	12.72%	
Total Passengers per Revenue Hour						
Fixed Route	25.6	26.9	-4.7%	24.8	25.7	-3.3%
Demand Response	2.8	2.6	6.8%	2.8	2.7	5.9%
Revenue per Passenger						
Fixed Route	0.96	0.84	14.1%	0.87	0.83	3.9%
Demand Response	3.18	3.47	-8.4%	3.21	3.23	-0.7%
Cost per Passenger						
Fixed Route	3.55	3.15	12.8%	3.49	3.41	2.3%
Demand Response	27.35	25.64	6.7%	25.65	25.79	-0.6%
Cost per Revenue Hour						
Fixed Route	91.05	84.67	7.5%	86.79	87.71	-1.1%
Demand Response	76.93	67.53	13.9%	72.16	68.53	5.3%

	Actual	Target
On Time Performance	8	
Fixed Route	86.05%	90%
Demand Response	92.65%	90%
Headcount	626	669
(includes PT Operators, excludes IPMO)		



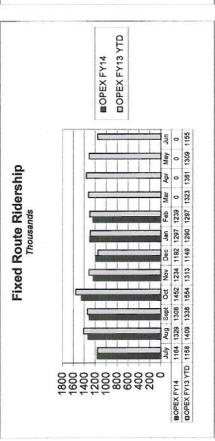
BOPEX FY14

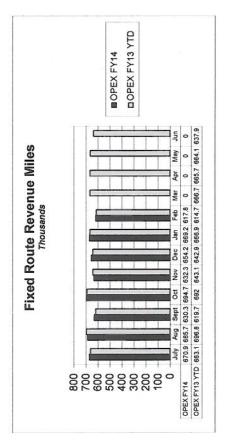
Fixed Route Operating Expense

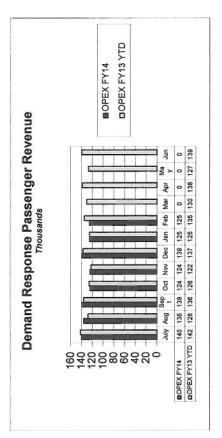


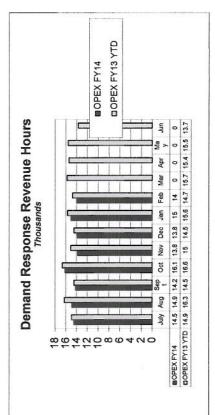


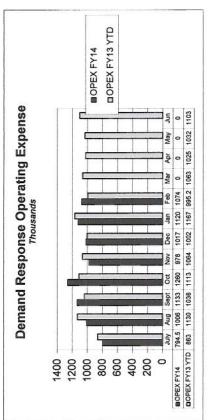
July Aug Sept Oct Nov Dec Jan Feb 3771 4543.2 4142.5 5478.2 4319.4 4650.4 4378.7 4399

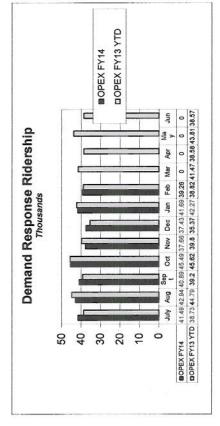


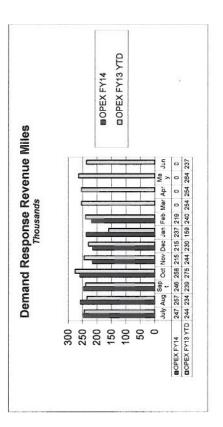












Statement of Operations Fiscal Year: 2014

% of Budget	98% 105% 100% 191% 1542% 100% 00%	102%	97% 90% 66% 89% 111% 112% 97% 91% 93% 94%
Fav/(Unf)	(178,866) 9,924 2 181,960 816,900 (3) 0 0	827,024	551,215 1,068,150 689,205 676,544 302,621 (10,555) 202,637 296,840 (61,661) (7,390) 3,343,046 4,170,069 1,619,365 162,686
ruary 2013 <u>Budget</u>	9,838,581 219,818 3,180,182 200,000 56,667 24,233,147 1,162,696 0 8,819,637	47,710,728	17,009,495 10,653,843 2,051,359 6,157,655 2,146,800 3,403,596 32,855 6,082,497 601,372 (707,931) 279,188 47,710,728 (0)
YEAR-TO-DATE: February 2013	9,659,714 229,743 3,180,184 381,960 873,567 24,233,144 1,162,696 0 8,816,744	48,537,751	16,458,280 9,585,693 1,362,154 5,481,111 1,844,178 3,768,155 43,410 5,879,860 304,532 (646,269) 286,579 44,367,682 44,367,682 44,367,682
Operating Revenues	Passenger Fares Measure I Subsidy - Fares Measure I Subsidy - Operating Auxillary Transportation Revenue Non-Transportation Revenue LTF Operating STAF Operating JARC - Operating Capital Funds for Operations	Total Revenues Operating Expenses	Labor Fringe Benefits Services Materials and Supplies Occupany Casuality and Liability Taxes and Fees Purchased Transportation Printing and Advertising Miscellaneous Expense Lease and Rental Total Operating Expense Net Gain (Net Loss) Sal & Ben Other
% of Budget	105% 99% 100% 415% 100% 0% 98%	100%	93% 63% 95% 95% 114% 124% 124% 93%
4 Fav/(Unf)	62,585 (140) 0 67 67 (36,513) 0 0 0 0	6,800	151,496 251,010 98,996 37,740 18,719 (61,390) 4,107 (8,609) (92,281) 39,847 (8,292) 431,345 431,345
H: February 201 <u>Budget</u>	1,229,823 27,477 397,523 25,000 7,083 3,029,143 145,337 0 1,102,455	5,963,841	2,126,187 1,331,730 265,795 769,707 268,350 4,107 760,312 75,172 (97,866) 34,899 34,899 3,457,917 675,211
CURRENT MONTH: February 2014 Actual Budget	1,292,407 27,338 397,523 25,067 (29,430) 3,029,143 145,337 0 1,083,256	5,970,640	1,974,691 1,080,720 166,798 731,967 249,631 486,840 0 768,921 167,452 (137,714) 43,190 5,532,496 5,532,496 3,055,411 766,208





DATE: April 9, 2014

TO: Board Chair Alan Wapner and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Mae Sung, Accounting Manager

SUBJECT: INVESTMENT STATUS

FORM MOTION

Receive and file this report on the status of the Agency's investments.

BACKGROUND

California Government Code requires the monthly reporting of investments of public agency funds to its governing body.

SUMMARY

All of the Agency's investments are invested with the Local Agency Investment Fund (LAIF) and Union Bank. Please refer to the attachment for the investment activity of the Agency for the month of February 2014. Sufficient funds are available to meet the obligations of the Agency for the next thirty-one days.

PSG:MS

OMNITRANS Treasurer's Report Month ending February 2014

Institution - Investment Type									
	Description	Starting Balance		Deposits	D	isbursements	Interest Yield		Ending Balance
		Cash and Inves	stmen	ts Under the Dire	ction	of the Treasurer			
Local Agency Investment Fund		\$ 14,900,298.40					0.23%		
Local Agency investment i unu		14,300,230.40	\$	1,400,000.00			0.24%		
			\$	9,200,000.00			0.24%		
					\$	(1,650,000.00)	0.23%		
						(4.050.000.00)			
Net LAIF Funds			\$	25,500,298.40	\$	(1,650,000.00) 23,850,298.40		\$	23,850,298.40
Fair Marketing Value	Fair Value Factor				Ψ	23,030,230.40	1.000287620	\$	23,857,158.22
an marketing value	ì	\$ 1,835,668.81					1.000207020	Ψ	23,037,130.22
Union Bank Money Market	Interest	1,000,000.01	\$	15.33			0.01%		
GMRA									
					\$	(89,128.26)			
			\$	1,835,684.14	\$	(89,128.26)			
					\$	1,746,555.88		\$	1,746,555.88
Citychande		\$ 306,176.61		ı					
Citybank Morgan Stanley Futures Account	Gain/Loss for month	1		\$4,997.20					
morgan otamey ratares Account	Cum/2005 for month		\$	311,173.81	\$	_			
				011,1100	\$	311,173.81		\$	311,173.81
		\$ 1,529,822.04							
	Passenger		\$	1,205,983.64					
	Grants' Revenue		\$	19,205,076.30					
	Miscellaneous Rever		\$	14,471.80		(40,000,000,00)			
	Transfers From (To) Transfers From (To)		\$ \$	1,650,000.00 89,128.26	\$	(10,600,000.00)			
	Transfers From (To)		\$	-					
	Accounts Payable				\$	(9,327,242.73)			
	Payroll and Payroll T	axes			\$	(2,032,354.66)			
	Employee Benefits				\$	(369,085.42)			
	Bank Service Charge	,			\$	(2,335.76)			
	+		\$	23,694,482.04	\$	(22,331,018.57)			
Net Union Bank Operating Funds					\$	1,363,463.47		\$	1,363,463.47
		\$ 3,700.00							
Potty Cash		5,700.00			¢	2 700 00		•	2 700 00
Petty Cash					\$	3,700.00		\$	3,700.00
		Cash and Inves	stmen	ts Under the Dire				\$	3,700.00
Petty Cash Union Bank Workmens' Comp. Adjuster			stmen	ts Under the Dire				\$	3,700.00
		Cash and Inves	stmen	ts Under the Dire				\$	3,700.00 75,000.00

[@] Source of Market Value: California State Pooled Money Investment Board Report.

⁽¹⁾ Union: "Summary of Market Value" posted on monthly fiscal agent statements.

⁽²⁾ LAIF: "Pooled Money Investment Account Market Valuation" .

[#] Master Control Account is the controlling account for all the zero balance accounts with Union including: Accounts Payable Account (General Account) and Payroll Account. Interest earned by the Master Control account is used as a partial offset to the monthly bank service charges.





DATE: April 9, 2014

TO: Board Chair Alan Wapner and Members of the Omnitrans Board of Directors

FROM: P. Scott Graham, CEO/General Manager

SUBJECT: PAYROLLS AND WARRANTS FOR FEBRUARY 2014

Approve the Agency's gross payroll for Management/Confidential Employees as follows:

Payroll Period	Amount	Register #
01/22/14-02/04/14	\$299,057.49	03
02/05/14-02/18/14	\$301,368.40	04

Approve the Agency's gross payroll for Represented Employees as follows:

Payroll Period	Amount	Register #
01/13/14-01/26/14	\$815,442.62	03
01/27/14-02/09/14	\$824,154.11	04

Approve the Register of Demands, dated as follows, and authorize the issuance of warrants:

Register Date	Amount	Register #
02/06/2014	\$6,599,415.77	669-670
02/13/2014	\$1,575,488.03	671
02/20/2014	\$ 458,587.76	672
02/27/2014	\$ 693,751.17	673

I, P. Scott Graham, CEO/General Manager of Omnitrans, declare that the above Register of Demands has been audited as required by Section 37202 and 37208 of the Government Code, and said documents are accurate and correct.

PSG:MS



1700 W. Fifth St. San Bernardino, CA 92411 909-379-7100 www.omnitrans.org

ITEM # E7

DATE: April 9, 2014

TO: Board Chair Alan Wapner and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Andres Ramirez, sbX Construction Manager

SUBJECT: CONSTRUCTION PROGRESS REPORT NO. 26 THROUGH

FEBRUARY 20, 2014 - sbX E STREET CORRIDOR BRT PROJECT

FORM MOTION

Receive and file Construction Progress Report No. 26 for the sbX E Street Corridor BRT Project through February 20, 2014.

This item was reviewed by the Administrative and Finance Committee at its March 13, 2014, meeting, and recommended to the Board of Directors for receipt and file.

BACKGROUND

This is Construction Progress Report No. 26 for the sbX E Street Corridor Project.

CONCLUSION

Receive and file Construction Progress Report No.26 for the sbX E Street Corridor BRT Project through February 20, 2014.

PSG:AR

Attachment



sbX E Street Corridor Bus Rapid Transit (BRT) Project

Construction Progress Report No. 26

As of February 20, 2014

Submitted By:

JACOBS

Contractor: SBX Corridor - Griffith/Comet

VMF - USS Cal Builders

Contractor Contract No.: IPMO11-5

Project Manager: Roger Hatton, P.E.

Resident Engineer Karim Varshochi, P.E.

(Corridor)

Anni Larkins, P.E.

(VMF)

Omnitrans Construction

Manager: Andres Ramirez

Construction Manager



TABLE OF CONTENTS

- I. Project Status Summary
 - A. Project Description sbX Corridor
 - B. Summary Status Update sbX Corridor
 - C. Upcoming Work sbX Corridor
 - D. Concerns sbX Corridor
 - E. Project Description Vehicle Maintenance Facility (VMF)
 - F. Summary Status Update Vehicle Maintenance Facility (VMF)
 - G. Upcoming Work Vehicle Maintenance Facility (VMF)
 - H. Concerns Vehicle Maintenance Facility (VMF)
- II. Project Schedule
 - A. Summary of Project Schedule sbX Corridor
 - B. Summary of Project Schedule Vehicle Maintenance Facility (VMF)
- III. RFIs, Submittals, and Non-Conformance Reports
 - A. sbX Corridor
 - B. Vehicle Maintenance Facility (VMF)
- IV. Safety
- V. Project Budget and Cost
- VI. Change Orders and Claims
 - A. VMF Change Orders
 - B. sbX Corridor Change Orders
- VII. Project Photographs
 - A. sbX Corridor Photos
 - B. Vehicle Maintenance Facility (VMF) Photos

I. PROJECT STATUS SUMMARY

A. Project Description – sbX Corridor

The sbX E Street Corridor BRT Project is a 15.7-mile-long transit improvement project that will connect the northern portion of the City of San Bernardino with the City of Loma Linda. Over the past four years, the sbX E Street Corridor Bus Rapid Transit (BRT) Project has evolved as the highest priority corridor identified in the System-Wide Transit Corridor Plan for the San Bernardino Valley.

The Refined LPA includes:

- 15.7 mile corridor
- 5.4 miles of exclusive center-running BRT lanes
- 10.3 miles of mixed flow BRT operation
- 16 BRT station locations, 6 center stations and 10 curb stations
- 23 station boarding structures
- 4 park-and-ride facilities with a total of 610 parking spaces
- Transit signal priority (TSP) applications at select key intersections

B. Summary Status Update (Accomplishments) – sbX Corridor

- Completed installation of glass panels.
- Completed project punch list walk.
- Completing remaining change order work.
- Installation of security railing at center running stations.
- Installation of artwork and plagues.

C. March Work - sbX Corridor

- · Completing punch list items.
- Completing Level I testing/certification.
- Completing Level 2-4 testing/certification.

D. Project Description – Vehicle Maintenance Facility (VMF)

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

E. Summary Status Update (Accomplishments) – Vehicle Maintenance Facility (VMF)

- On January 17, 2014 the Agency received non-detect results for the last UST removed; however backfill work is pending resolution of the adjacent contaminated soil site.
- Placed concrete for the booster pump pad and the tire carousel pad on January 23, 2014. Fabrication of the enclosure is ongoing.
- Placed concrete for the door in fills at Building A on February 11, 2014.
- Completed lathe installation and inspection at the new Batter Room on February 12, 2014.
- Completed existing footing removal at the old Building B in January 2014; however, backfill work is pending resolution of the adjacent contaminated soil site.

F. March Work – Vehicle Maintenance Facility (VMF)

- Complete concrete placement for the new bus lift pits in Maintenance Building A.
- If the County approves the submitted plan to mitigate the contaminated soil encountered at new Building B, and if the contaminated soil does not extend east of the new Building B footprint, the Contractor can proceed with the construction of the new buffer tank pad, relocation of the buffer tanks, and start grading and excavation for the new Fuel Facility (Building C).
- Once the contaminated soil area is mitigated, the Contractor can proceed with installation of the new sewer line and grading for the new Bus Wash Facility (Building B).
- Complete construction of the new booster pump and enclosure, and complete the water point of connection at the compressor room in March 2014.
- Install the new compressors and continue work at the new battery room.

II. PROJECT SCHEDULE

The CM team and Contractors are using the latest scheduling tools (Primavera V. P6), available to manage the project schedule.

A. Summary of Project Schedule – sbX Corridor

A formal Dispute Resolution Board hearing was held on January 16, 2014. As a result, the DRB requested that the Contractor prepare a revised baseline schedule for review, which would include all change orders to date.

The Contractor proceeded to prepare an update to their normal schedule which they felt represented a more accurate "longest path" than the one submitted in August. They also prepared a cost analysis for the extended General Conditions that correlated with the updated schedule. Contractor asked Omnitrans to use these documents as a basis for negotiations rather than proceed with the DRB. Thus, the DRB was placed on hold.

Omnitrans met with the Contractor on two occasions and we were able to come to an agreement on a time extension until March 31, 2014, and the associated costs. To finalize our agreement, a change is being processed.

B. Summary of Project Schedule – Vehicle Maintenance Facility (VMF)

The Contractor resubmitted its combined October/November 2013 Monthly Schedule Update, with a data date of November 4, 2013, on January 8, 2014.

The schedule update shows the project behind schedule, with approximately (+/-) 208-calendar days of negative float projecting a Substantial and Final Completion dates of July 14, 2014 and September 11, 2014, respectively. The resubmittal was accepted "For Record Purposes Only" on January 29, 2014 and the Contractor is expected to submit its December 2013 Monthly Schedule Update (UP05), with a data date of December 15, 2013, by the end of February 2014.

The formal TIE #1 was evaluated and returned to the Contractor. Merit was found for a time extension of 108 calendar days. Fifty-five of those days deemed concurrent, while fifty-three deemed excusable and compensable. The remaining 100 of the 216 days requested found to be unexplained and the Contractor asked to recover or validate those days.

A change order is being prepared to formally grant the 108-calendar day extension while the Contractor has formally reserved his right to dispute the 100 unexplained days. The time extension will formally change the substantial completion and final completion to 3/27/14 and 5/26/14, respectively.

III. REQUESTS FOR INFORMATION (RFIS), SUBMITTALS, AND NON-CONFORMANCE REPORTS (NCRs)

A. sbX Corridor

To date, the CM team has met the required timelines and no delay has come about as a result of submittal and RFI responses.

Total RFIs – 1008	Total Submittals – 866	Total NCRs - 26
Total Open – 6	Total Open – 5	Total Open - 3

Weekly RFI meetings held every Tuesday morning. Weekly NCR meetings held every Thursday morning.

B. Vehicle Maintenance Facility (VMF)

To date, the CM team has met the required timelines and no delay caused by submittal and RFI responses.

Total RFIs – 174	Total Submittals – 312	Total NCRs - 12
Total Open – 6	Total Open – 8	Total Open – 5

SAFETY

The project team considers safety to be the utmost priority. As such, the entire project team works towards a "no-lost time" goal on a daily basis.

SbX Corridor - As of December 25, 2013 there are 409,019.00 "no-lost time" hours.

VMF - As of February 7, 2014 there are 17,056.21 "no-lost time" hours.

IV. PROJECT BUDGET AND COST

TOTAL PROGRAM BUDGET

BUDGET AS OF JANUARY 31, 2014

Approved Budget \$191,706,000
Cost to Date \$151,073,283
Estimate to Complete \$39,016,157
Estimate at Completion \$190,089,440

SBX CORRIDOR PROJECT COSTS - AS OF JANUARY 31, 2014

	CURRENT AUTHORIZED	CURRENT INVOICES PAID	REMAINING CONTRACT BALANCE
JACOBS	\$11,852,647	\$9,140,751	\$2,711,896
PARSONS	\$18,097,876	\$16,841,587	\$1,256,289
GRIFFITH/COMET	\$83,900,928	\$72,451,706	\$11,449,222
TOTAL	\$113,851,451	\$98,434,044	\$15,417,407

VMF CORRIDOR PROJECT COSTS - AS OF JANUARY 31, 2014

	CURRENT AUTHORIZED	CURRENT INVOICES PAID	REMAINING CONTRACT BALANCE
STV Inc.	\$1,418,132	\$1,267,633	\$150,499
USS Cal Builders	\$11,492,704	\$4,918,099	\$6,574,605
Total	\$12,910,836	\$6,185,732	\$6,725,104

SBX CORRIDOR CONTRACT TIME

Activity	Days	Date
Notice to Proceed		11/21/11
Calendar Days per Original Contract	730	
Original Completion Date		12/21/13
Calendar Days Completed as of February 20, 2014	791	
CCO Time Extension to Date	0	
Required Completion Days/Date as of February 20, 2014	-61	12/21/13
Forecasted Completion Date as of February 20, 2014		TBD*
Percent Time Elapsed	108%	

VMF CONTRACT TIME

Activity	Days	Date
Notice to Proceed		12/10/12
Calendar Days per Original Contract	425	
Original Completion Date		02/08/14
Calendar Days Completed as of February 20, 2014	437	
CCO Time Extension to Date	0	
Required Completion Days/Date as of February 20, 2014	-12	02/08/14
Forecasted Revenue Start Date as of February 20, 2014		04/30/14
Percent Time Elapsed	103%	_

^{*} CONSTRUCTION COMPLETION DATE WILL BE AVAILABLE UPON COMPLETION OF THE SCHEDULE UPDATE.

CHANGE ORDERS

SBX CORRIDOR CONTRACT CHANGE ORDERS - As of February 20, 2014

Change Order Status	Amount Approved
Approved Change Orders	\$18,775,176.53
Pending Change Orders	\$736,569.82
Potential Change Orders	\$1,240,000
Total	\$20,751,746.35

VMF CONTRACT CHANGE ORDERS - As of February 20, 2014

Change Order Status	Amount
Approved Change Orders	\$1,013,548.60
Pending Change Orders	\$138,827.82
Potential Change Orders	\$1,891,342.99
Total	\$3,043,719.41

Note: Currently, pricing for Potential Change Orders are estimated based on Rough Order of Magnitude pending designer plans or final submittal of pricing by the Contractor.

Upon the approval of the final to date schedule, an analysis will be completed to determine the effect of the change orders on the scheduled completion date.

V. Project Photographs

SBX CORRIDOR PROGRESS PHOTOS



1. Ace Fence installing a gate post for Gage Canal at Brier.



2. Little Mountain and Kendall installation of truncated domes.

VMF PROGRESS PHOTOS



1. Removal of the 600-Gallon Underground Diesel Tank.



2. All 8 Underground Storage Tanks Are Removed, Buildings B and C are Demolished and Site is Being Prepared for Grading Activities and Foundations of Future Bus Wash and Fueling Stations

IPMO/sbX Project Cost Report Period Ended 1/31/14

Description	escription Current Budget					Remaining	Estimate to	Estimate at	Budget Forecast	
-	_	\$	%	Budget	Complete	Completion	Variance			
BRT Construction	84,637,000	72,528,049	85.7%	12,108,951	16,776,838	89,304,887	(4,667,887)			
Vehicle Maintenance Facility										
(VMF) Construction	8,131,000	4,918,099		3,212,901	10,261,583	15,179,682	(7,048,682)			
Vehicles - Design &										
Manufacturing	16,628,000	14,800,861	89.0%	1,827,139	1,364,854	16,165,715	462,285			
ROW Acquisition Services	10,357,000	10,940,793	105.6%	(583,793)	964,334	11,905,127	(1,548,127)			
3rd Party Utilities Design &										
Relocation	1,003,000	1,046,796	104.4%	(43,796)	59,321	1,106,117	(103,117)			
BRT Design	17,849,400	16,841,587	94.4%	1,007,813	9,495	16,851,082	998,318			
VMF Design	1,007,600	1,282,033	127.2%	(274,433)	413,899	1,695,932	(688,332)			
Other Professional, Technical										
& Management Services	34,020,000	28,715,065	84.4%	5,304,935	9,165,833	37,880,898	(3,860,898)			
SUB-TOTAL	173,633,000	151,073,283		22,559,717	39,016,157	190,089,440	(16,456,440)			
Unallocated Contingency 18,073,000		-		18,073,000	1,616,560	1,616,560	16,456,440			
TOTAL	191,706,000	151,073,283	78.8%	40,632,717	40,632,717	191,706,000	•			

IPMO/sbX Project Through 1/31/14

Carent Budget Current Budget Specifium Current Budget S			1				Igii 1/3 1/14	- 1		1		Г	
George Colore C	Standard Cost												
Colora C		Description			•		Remaining Bud	get	Estimate to Complete	Est	timate at Completion	Bud	lget Forecast Variance
Conceivery Angular Semi-exclusive (pilors Cross 1,00.02 triffer) Conceivery Angular (pilors Cros			Cur		•								
10.02 174ff(c) 174ff(c) 5 13,330,00 1,92,6142 1,000 1,92,6142 1,92,6	10			19,725,000	16,842,055	85.4%	\$ 2,882,	945	\$ 2,750,640	\$	19,592,695	\$	132,305
10.03 Guide-way, Algoride in mixed Traffic \$ 1,372,000 1,296,412 140,48 \$ \$ \$ \$ \$ \$ \$ \$ \$													
200 STATIONS, STORES, TERMINALS, INTERMODAL 1,937,000 12,935,008 83.89% \$ 2,421,592 \$ 1,840,671 \$ 14,336,079 \$		·							· · · · · · · · · · · · · · · · · · ·			_	1,023,778
Application			\$							_		_	(891,473)
20.01 platform 14,917,000 12,495,008 83.88 \$ 2,421,92 \$ 1,800,671 \$ 1,338,079 \$	20			14,917,000	12,495,408	83.8%	\$ 2,421,	592	\$ 1,840,671	\$	14,336,079	\$	580,921
SUPPORT FACILITIES: YARDS, SHOPS, ADMIN. S 8,131,000													
BLOGS	20.01	i.		14,917,000	12,495,408	83.8%	\$ 2,421,	592	\$ 1,840,671	\$	14,336,079	\$	-
30.05 Ught Maintenance Facility													
30.0 Yard and Yard Track	30	BLDGS		8,131,000	4,918,099	60.5%			-, -,	\$	15,179,681	\$	(7,048,681)
4001 Demoliton, Cleaning, Earthwork \$ 4,741,000 24,928,679 \$ 12,726 \$ 9,342,221 \$ 5,699,628 \$ 30,628,311 \$ 3, 40.01 \$ 4001 \$ 2000 \$ 4,074,000 \$ 32,306 \$ 6,96 \$ 4,411,643 \$ 133,428 \$ 66,704 \$ 4, 40.02 \$ 130,428 \$ 66,704 \$ 4, 40.02 \$ 130,428 \$ 66,704 \$ 4, 40.02 \$ 130,428 \$ 66,704 \$ 4, 40.02 \$ 130,428 \$ 66,704 \$ 4, 40.02 \$ 130,428 \$ 60,000 \$ 10,000 \$		Light Maintenance Facility	_	4,265,000	3,821,363	89.6%	\$ 443,	537	\$ 7,866,991	\$	11,688,354	\$	(7,423,354)
40.02 Demolition, Cherling, Farthwork \$ 4,741,000 329,366 6.99k \$ 4,411,634 \$ 133,428 \$ 462,794 \$ 4,4022 \$ text Utilines, Utiling Pilerlation \$ 4,935,000 9,128,258 32,88k \$ (4,135,258) \$ 2,118,701 \$ 11,246,595 \$ (6,540) \$ 40,05 \$ (6,540) \$ 40,05 \$ (6,540) \$ 467,326 \$ 643,866 \$ (6,540) \$ 40,05 \$ (6,540) \$ 467,326 \$ (6,540) \$ (6,540	30.05	Yard and Yard Track	\$	3,866,000	1,096,736	0.0%	\$ 2,769,	264	\$ 2,394,591	\$	3,491,327	\$	374,673
40.02 Site Utilities, Utility Relocation \$ 4,993,000 9,128,258 \$ 2.886 \$ (4,135,258) \$ 2,118,701 \$ 11,246,959 \$ (6,	40	SITEWORK & SPECIAL CONDITIONS		34,271,000	24,928,679	72.7%	\$ 9,342,	321	\$ 5,699,632	\$	30,628,311	\$	3,642,689
Site Structures including retaining walls, sound	40.01	Demolition, Clearing, Earthwork	\$	4,741,000	329,366	6.9%	\$ 4,411,	534	\$ 133,428	\$	462,794	\$	4,278,206
40.05 walls	40.02	Site Utilities, Utility Relocation	\$	4,993,000	9,128,258	182.8%	\$ (4,135,	258)	\$ 2,118,701	\$	11,246,959	\$	(6,253,959)
### 40.06 Indicasaging S		Site structures including retaining walls, sound											
40.06 Indiscaping S 6,925,000 3,190,112 46.1% S 3,734,888 S 1,729,878 S 4,919,990 S 2,	40.05	walls	\$	90,000	176,540	196.2%	\$ (86,	540)	\$ 467,326	\$	643,866	\$	(553,866)
Automobile, bur, van accessways including		Pedestrian / bike access and accommodation,											
40.07 coads, parking lots	40.06	landscaping	\$	6,925,000	3,190,112	46.1%	\$ 3,734,	388	\$ 1,729,878	\$	4,919,990	\$	2,005,010
## 40.08 during construction ## 5 13,921,000 8,028,243 57.7% \$ 5,892,757 \$ 1,079,110 \$ 9,107,353 \$ 4,		Automobile, bus, van accessways including											
40.08 during construction \$ 13,921,000 8,028,243 57,7% \$ 5,892,757 \$ 1,079,110 \$ 9,107,353 \$ 4, \$ 50.02 \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$	40.07	roads, parking lots	\$	3,601,000	4,076,160	113.2%	\$ (475,	160)	\$ 171,189	\$	4,247,349	\$	(646,349)
SYSTEMS		Temporary Facilities and other indirect costs											
SYSTEMS	40.08	during construction	\$	13,921,000	8,028,243	57.7%	\$ 5,892,	757	\$ 1,079,110	\$	9,107,353	\$	4,813,647
Solicy Francisco Image and crossing protection Solicy Soli		SYSTEMS		16,727,000							20,526,303	\$	(3,799,303)
Sol Communications S 4,210,000 8,065,688 391,6% S 3,855,689 S 362,579 S 8,428,267 S 5,000,000 S S 7,000,000 S	50.02	Traffic signals and crossing protection					. ,,,,,,			_		_	4,311,964
South Sout									<u> </u>	_		_	(4,218,267)
Pending Change Orders									·			_	(3,893,000)
Risk			Ť	1,707,000	1,373,323	231.170	Ç (3)200).	,_5,	<u> </u>			_	(2,115,576)
Construction Subtotal (10-50) 93,771,000 78,492,944 83.7% \$ 15,278,056 \$ 27,097,741 \$ 105,590,685 \$ (11,600) \$ 100,590,685 \$ 100,590,685 \$ (11,600) \$ 100,590,685 \$ 100,590,685 \$ 100,590,685 \$ 100,590,685 \$ 100,590,685 \$ 100,590,685 \$ 100,590,685 \$ 100,590,685 \$ 100,590,685 \$ 100,590,685 \$ 1									, , -,	_			(3,212,040)
Contraction							4 4-4-						
60.01 Purchase or lease of real estate \$ 6,327,000	CO							_		<u> </u>		_	(11,819,685)
Relocation of existing households and businesses \$ 205,000		1								_			(433,992)
60.02 businesses	60.01		\$	6,327,000	5,841,458	92.3%	\$ 485,	542	\$ 919,534	\$	6,760,992	\$	(433,992)
To VEHICLES \$ 16,628,000 \$ 14,800,861 89.0% \$ 1,827,139 \$ 1,364,854 \$ 16,165,715 \$ 1,004 \$ 1,005 \$ 1,480,861 \$ 1,480,8		_	١.							١.		١.	
70.04 Bus									<u> </u>				-
70.06 Non-revenue vehicles \$ 250,000 - 0.0% \$ 250,000 \$ - \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$, , ,				462,285
70.07 Spare parts \$ 930,000 - 0.0% \$ 930,000 \$ 907,048 \$ 907,048 \$ \$ \$ \$ \$ \$ \$ \$ \$			_		14,800,861				· /	_	15,258,667	_	189,333
80.01 Preliminary Engineering \$ 12,921,000 12,876,525 99.7% \$ 44,475 \$ 17,502 \$ 12,894,027 \$ 80.02 Final Design \$ 7,261,000 7,028,619 96.8% \$ 232,381 \$ 413,503 \$ 7,442,122 \$ (Project Management for Design and Construction Administration & Management \$ 15,997,000 11,178,820 69.9% \$ 4,818,180 \$ 3,543,882 \$ 14,722,702 \$ 12,852,647 \$ (6,		Non-revenue vehicles	\$	250,000	-	0.0%	\$ 250,	000	\$ -	\$	=	\$	250,000
80.01 Preliminary Engineering \$ 12,921,000 12,876,525 99.7% \$ 44,475 \$ 17,502 \$ 12,894,027 \$ 80.02 Final Design \$ 7,261,000 7,028,619 96.8% \$ 232,381 \$ 413,503 \$ 7,442,122 \$ (Project Management for Design and Construction Management \$ 15,997,000 11,178,820 69.9% \$ 4,818,180 \$ 3,543,882 \$ 14,722,702 \$ 1, 80.04 Construction Administration & Management \$ 6,632,000 9,140,751 137.8% \$ (2,508,751) \$ 3,711,896 \$ 12,852,647 \$ (6, Professional Liability and other Non-Construction Insurance \$ 1,112,000 \$ 0.0% \$ 1,112,000 \$ 500,000 \$ 500,000 \$ \$ 1,112,000 \$ 500,000 \$ \$ 1,112,000 \$ 11,548,375 109.0% \$ (952,375) \$ 682,175 \$ 12,230,550 \$ (1, 80.07 Surveys, Testing, Investigation, Inspection \$ 1,463,000 \$ 0.0% \$ 1,463,000 \$ 25,000 \$ 25,000 \$ 10, 80.08 Start up \$ 720,000 \$ 10,000 \$ 11,548,375 109.0% \$ 12,000 \$ 700,000 \$ 700,000 \$ 10,	70.07		\$	930,000	-	0.0%	\$ 930,	000	\$ 907,048	\$,		22,952
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1700 W. Fifth St. San Bernardino, CA 92411 909-379-7100 www.omnitrans.org

DATE: April 9, 2014

TO: Board Chair Alan Wapner and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Anna Rahtz, Acting Director of Planning and Development Services

SUBJECT: FUNDING AGREEMENT BETWEEN CENTRAL CITY LUTHERAN

MISSION AND OMNITRANS

FORM MOTION

Authorize the CEO/General Manager to execute the funding agreement between Omnitrans and Central City Lutheran Mission for \$152,958 of Section 5316 Job Access Reverse Commute (JARC) and Section 5317 New Freedom (NF) federal funds awarded through SANBAG's 2013 Call for Projects.

This item was reviewed by the Plans and Programs Committee at its February 26, 2014 meeting, and recommended to the Board of Directors for approval. This item was also reviewed and approved by Omnitrans legal counsel.

BACKGROUND

On October 2, 2013, SANBAG's Board of Directors awarded Central City Lutheran Mission (CCLM) a total of \$152,958 in Section 5316 Job Access Reverse Commute (JARC) and Section 5317 New Freedom (NF) federal funds to continue their transportation program through the 2013 Call for Projects. CCLM's transportation program provides transportation for medical and social service appointments for clients living with HIV/AIDS so that they can continue attending necessary medical and social service appointments and seek gainful employment.

These funds are part of a pass-through of federal funds in grants CA-37-X146 and CA-57-X017. The budget identifies \$54,727 in Federal Transit Administration Section 5316 JARC and \$98,231 in Section 5317 NF funding. Local matching funds are being passed through Valley Transportation Services. As the FTA grant recipient, Omnitrans will receive approximately \$6,118 for administrative costs and grant oversight.

This will be CCLM's second funding agreement for pass-through FTA funds awarded by SANBAG. The first funding agreement was executed on March 7, 2012, and covered project costs for fiscal years 2012-2015.

Board Chair Alan Wapner and Members of the Omnitrans Board of Directors April 9, 2014 - Page 2

FUNDING SOURCES

Funding for this grant pass through is as follows:

			PROJECT	INTERNAL	
FUNDING	GRANT	YEAR	NAME	ORDER	AMOUNT
FTA	CA-37-X146	2010	CCLM	G10L0007F	\$ 54,727
FTA	CA-57-X062	2010	CCLM	G10L00N7F	\$ 98,231
Total					\$152,958

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

CONCLUSION

Staff requests the Board of Directors to authorize the CEO/General Manager to execute the second funding agreement between Central City Lutheran Mission and Omnitrans as part of SANBAG's 2013 Call for Projects pass-through award.

PSG:AR:JB:BR

SUBGRANTEE FUNDING AGREEMENT FOR JOB ACCESS REVERSE COMMUTE GRANT AND NEW FREEDOM GRANT FUNDS

DUNs identification number 17-9884713

This Funding Agreement for Job Access Reverse Commute and New Freedom grant funds ("Agreement") by and between Central City Lutheran Mission ("Sub-grantee") and Omnitrans, a joint powers authority ("Omnitrans"), is entered into this __ day of ______, 2014. Sub-grantee and Omnitrans are sometimes individually referred to as "Party" and collectively as "Parties."

Recitals

- A. This Agreement describes the respective responsibilities of Sub-grantee and Omnitrans for capital and operating expenses in connection with Omnitrans Fiscal Year 2011 Section 5316 Job Access Reverse Commute (JARC) Grant Agreement attached hereto as **Exhibit A** (the "JARC Grant Agreement") and Omnitrans Fiscal Year 2011 Section 5317 New Freedom (NF) Grant Agreement attached hereto as **Exhibit B** (the "NF Grant Agreement") (referred to collectively herein as "Grant Agreements").
- B. Omnitrans previously submitted a grant application for Section 5316 JARC funds for Fiscal Year 2011 and Section 5317 NF funds for Fiscal Year 2011 to the Federal Transit Administration ("FTA"). The FTA awarded Omnitrans Section 5316 JARC (CFDA 20.516) funds and Section 5317 NF (CFDA 20.521) funds for Fiscal Year 2011 in the amounts shown in the Grant Agreements (the "Total FTA Grant Amount"). The Parties now desire that the JARC and NF funds awarded to Omnitrans be used for the benefit of Sub-grantee, as a sub-grantee under the Grant Agreements.
- C. Sub-grantee desires to schedule and transport HIV and AIDS clients for medical and work related trips in San Bernardino (the "**Project**").
- D. As a Sub-grantee receiving JARC and NF funds, Sub-grantee desires to undertake the Project and comply with all provisions of the Grant Agreements and applicable federal, state and local laws and regulations ("Applicable Law").

NOW THEREFORE, based on the forgoing recitals and the following promises and covenants the Parties agree:

- 1. <u>Obligations of Omnitrans</u>. Pursuant to, and to the extent provided in, this Agreement, Omnitrans shall take the following actions:
 - a. Reimburse Sub-grantee for the Project, up to \$54,727 in Section 5316 JARC funds (Grant No. CA-37-X146), up to \$98,231 in Section 5317 NF funds (CA-57-X062) (the "**Project Funds**") in conformity with the following procedure:
 - (1) For each disbursement requested, Sub-grantee shall provide a written invoice to Omnitrans specifying the amount requested to be disbursed and the purpose of the disbursement, and shall provide such additional supporting documentation and background information as Omnitrans may reasonably require (the "Disbursement Request") by no later than the 15th of each month.
 - (2) Each Disbursement Request shall be accompanied by a written certification of Sub-grantee's Executive Director that such disbursement will not constitute any violation of the terms of the Grant Agreements, or of Applicable Law, and that

- Sub-grantee will use the disbursement for the purpose indicated in the Disbursement Request.
- (3) Within five (5) business days of the receipt of an invoice and accompanying certification, Omnitrans shall notify Sub-grantee as to what, if any, additional supporting documentation and background information it requires.
- (4) Within the first week of the following month after invoice submittal to Omnitrans pursuant to above, Omnitrans shall: (i) disburse (including through electronic transfer of funds, if so requested and if Sub-grantee provides the necessary information) the amount requested, unless Omnitrans provides written notice that it cannot disburse such amount without violating the terms of either the Grant Agreements or of Applicable Law; or (ii) notify Sub-grantee through written notice as to why it is unable to disburse some or all of the requested funds without violating the terms of either the Grant Agreements or Applicable Law.
- (5) To the extent that the FTA advises Omnitrans that a disbursement would constitute a violation of the terms of either the Grant Agreements or Applicable Law, Omnitrans shall have no obligation to disburse such funds. Notwithstanding any Sub-grantee certification, Omnitrans may solicit, at Sub-grantee expense, a legal opinion from competent counsel of its choice if Omnitrans has a good faith and reasonable question about whether a disbursement will result in a violation of the terms of the Grant Agreements or of Applicable Law.
- (6) Omnitrans shall have no liability to Sub-grantee for any refusal to disburse funds so long as Omnitrans has documented and provided written notice to Sub-grantee that such disbursement would constitute a violation of the terms of the Grant Agreements or Applicable Law.
- b. Prepare and submit to the FTA on a timely basis all required periodic reports and milestone updates, so long as it timely receives all necessary information from Subgrantee.
- c. Conduct itself so that any aspect of Omnitrans' participation in this Agreement and the actions required of it hereunder, will be in compliance with the terms of the Grant Agreements and with Applicable Law.
- d. Comply with all requirements of the FTA Master Agreement, found at http://www.fta.dot.gov/documents/16-Master.pdf.
- 2. Payment of Administrative Expenses of Omnitrans. As compensation for the obligations undertaken by Omnitrans pursuant to the terms of this Agreement, an indirect overhead charge will be charged to and paid from Section 5316 JARC funds (Grant No. CA-37-X146) and Section 5317 NF funds (Grant Nos. CA-57-X062) to account for all administration costs associated with managing the Project (the "Administrative Expenses"). Omnitrans will deduct an amount equal to 4% of the Project Funds (\$6,118) from the Total FTA Grant Amount as Administrative Expenses. Project Funds shall not be used for the Administrative Expenses.
- 3. <u>Warranties of Sub-grantee</u>. Sub-grantee warrants to Omnitrans that:

- a. Sub-grantee has or will have, prior to the necessity of expending them, all funds necessary to provide the local matching funds required to receive the FTA Section 5316 JARC and Section 5317 NF grant funds (the "Match Obligation"). The approximate amount of the Match Obligation for the Project is \$59,967.
- b. To Sub-grantee's knowledge, Omnitrans' prior submission of the FTA Section 5316 JARC and Section 5317 NF grant application on behalf of Sub-grantee has not and will not violate the terms of the Grant Agreements or any provision of the Applicable Law.
- c. Sub-grantee will conduct itself so that all aspects of the Project and any aspect of Sub-grantee's participation in this Agreement, including the actions contemplated by this Agreement, will be in compliance with the terms of the Grant Agreements and with Applicable Law.
- d. Sub-grantee will use the disbursements for the purposes indicated in its Disbursement Request.
- e. Sub-grantee will agree to comply with 49 U.S.C. § 5323(j) and FTA regulations, "Buy America Requirements," 49 C.F.R. Part 661, and any amendments thereto.
- f. Sub-grantee will comply with all requirements of the FTA Master Agreement, found at http://www.fta.dot.gov/documents/16-Master.pdf, including submission to Omnitrans on a quarterly basis, of reports that document the status of the Project's implementation progress, including task completion status, budget status, and adherence to the Project, as defined in the grant applications.
- 4. <u>Obligations of Sub-grantee</u>. Pursuant to, and to the extent provided in, this Agreement, Subgrantee shall take the following actions:
 - a. Provide Omnitrans all information that is reasonably needed for Omnitrans' performance of its obligations hereunder and pursuant to the Grant Agreements.
 - b. Satisfy Sub-grantee's Match Obligation and submit evidence of the dollar amount and source(s) of the funds, as Omnitrans may reasonably require. Sub-grantee may utilize its payment of staff salaries, benefits and expenses in administrative support for the Project to satisfy its Match Obligation.
 - c. Notify Omnitrans of any changes in the scope or description of the Project.
 - d. Certify to Omnitrans for each Disbursement Request that, to the best of Sub-grantee's knowledge, such disbursement will not constitute any violation of either the provisions of the Grant Agreements or of Applicable Law and that Sub-grantee will use the disbursement as indicated in the Disbursement Request found in Section 1.
 - e. Provide to Omnitrans all information needed for quarterly Project reporting and milestone updates in a timely manner to allow Omnitrans enough time to prepare and submit to the FTA on a timely basis all required or requested FTA reports and updates. In no event shall such reports be received later than fifteen (15) days prior to the required date of submission to the FTA of such report or update, provided Omnitrans has provided Sub-grantee with notice of the required date of submission no less than thirty (30) days prior to the required date of submission to the FTA.

- f. Ensure that all aspects of the Project and any aspect of Sub-grantee's participation in this Agreement and the actions contemplated of Sub-grantee by this Agreement will be in compliance with the terms of the Grant Agreements and with all Applicable Law.
- g. Sub-grantee shall provide Omnitrans the required signed Self-Certification Form by July 31 of each year, in accordance with FTA audit requirements.
- h. Sub-grantee shall provide Omnitrans a copy of its annual single audit for each fiscal year, in accordance with FTA audit requirements.
- i. The Sub-grantee shall comply with all applicable sections of FTA Circular 5010.1d pertaining to the management of federally funded assets. The Sub-grantee will provide all necessary information to Omnitrans so that Omnitrans can coordinate with the FTA related to the requirements in Circular 5010.1d.
- 5. Exercise of Rights under the Agreement. The CEO/General Manager of Omnitrans, or his or her designee, shall exercise the rights of Omnitrans under this Agreement including, without limitation, accepting the certifications of Sub-grantee required under the terms of this Agreement. The Chief Executive Officer of Sub-grantee, or his or her designee, shall exercise the rights of Sub-grantee under this Agreement; however, any certifications of Sub-grantee required under the terms of this Agreement shall be provided only by the Chief Executive Officer or such other representative of Sub-grantee as is specified by action of the Sub-grantee's governing body.
- 6. <u>Insurance</u>. Sub-grantee shall require all contractors or consultants hired to perform work or services on the Project to obtain, and require their sub-consultants and sub-contractors to obtain, insurance of the types and in the amounts described below and satisfactory to Omnitrans. Such insurance shall be maintained throughout the term of this Agreement, or until completion of the Project, whichever occurs last.
 - a. <u>Commercial General Liability Insurance</u>. Occurrence version commercial general liability insurance or equivalent form with a combined single limit of not less than \$1,000,000.00 per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to the Project or be no less than two times the occurrence limit. Such insurance shall:
 - (1) Name Omnitrans, its officials, officers, employees, agents, and consultants as insured with respect to performance of the work or services on the Project and shall contain no special limitations on the scope of coverage or the protection afforded to these insured:
 - (2) Be primary with respect to any insurance or self-insurance programs covering Omnitrans, its officials, officers, employees, agents, and consultants; and
 - (3) Contain standard separation of insured provisions.
 - b. <u>Business Automobile Liability Insurance</u>. Business automobile liability insurance or equivalent form with a combined single limit of not less than \$1,000,000.00 per occurrence. Such insurance shall include coverage for owned, hired and non-owned automobiles.
 - c. <u>Professional Liability Insurance</u>. Errors and omissions liability insurance with a limit of not less than \$1,000,000.00. Professional liability insurance shall only be required of design or engineering professionals.

- d. <u>Workers' Compensation Insurance</u>. Workers' compensation insurance with statutory limits and employers' liability insurance with limits of not less than \$1,000,000.00 each accident.
- 7. Mutual Indemnification. Omnitrans and Sub-grantee shall defend, indemnify and hold the other Party, its officials, officers, employees, agents, and consultants free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, to the extent arising out of or incident to any intentional or negligent acts, errors or omissions of the indemnifying Party, its officials, officers, employees, agents, and consultants related to a breach of this Agreement or any act or omission arising out of the activities governed by this Agreement. The indemnifying Party's obligation to indemnify includes without limitation the payment of all consequential damages and reasonable attorneys' fees, expert witness fees and other related costs and expenses of defense. The sole exception to the indemnifying Party's obligation to indemnify shall be for acts of negligence or willful misconduct of the indemnified Party, its officials, officers, employees, agents, and consultants. This is a comparative negligence provision and each Party shall bear their own costs to the extent to which they are each negligent. The indemnifying Party shall defend, at its own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against the indemnified Party, its officials, officers, employees, agents, and consultants. The indemnifying Party shall pay and satisfy any judgment, award or decree that may be rendered against the indemnified Party, its officials, officers, employees, agents, and consultants in any such suits, actions or other legal proceedings. A Party's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the other Party, its officials, officers, employees, agents, and consultants.
- 8. <u>Term.</u> This Agreement shall terminate upon the completion of the disbursement of the Project Funds to Sub-grantee and the completion of all reports, updates or any other documentation or responsibility of Omnitrans related to the Project. In all events, this Agreement shall terminate within the time limits set forth in applicable FTA procedures and regulations, but in no event later than three (3) years from the date of the Agreement's execution date.

9. Force Majeure.

- a. An "Uncontrollable Force" (force majeure) is any occurrence beyond the control of a Party which causes that Party to be unable to perform its obligations hereunder and which a Party has been unable to overcome by the exercise of due diligence, including but not limited to, flood, drought, earthquake, storm, fire, pestilence, lightning and other natural catastrophes, epidemic, war, riot, civil disturbance or disobedience, strike, labor dispute, action or inaction of legislative bodies, judicial bodies, or regulatory agencies, or other proper authority, excepting the governing body of the Party asserting the Uncontrollable Force, which may conflict with the terms of this Agreement. In no event shall any Uncontrollable Force excuse the obligation to issue disbursements to Sub-grantee as soon as Omnitrans is reasonably able to do so.
- b. Subject to Section 9a, neither Party shall be considered to be in default in the performance of any of the obligations contained in this Agreement when and to the extent failure of performance shall be caused by an Uncontrollable Force.
- c. If either Party, because of an Uncontrollable Force, is rendered wholly or partly unable to perform its obligations under this Agreement, the Party shall be excused from whatever performance is affected by the Uncontrollable Force to the extent so affected, provided

- that: (i) the nonperforming Party within one week after the occurrence of the Uncontrollable Force, gives the other Party written notice describing the particulars of the occurrence; (ii) the suspension of performance is of no greater scope and of no longer duration than is required by the Uncontrollable Force; (iii) the nonperforming Party uses its best efforts to remedy its inability to perform (this subsection shall not require the settlement of any strike, walkout, lockout, other labor disputes or any other dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to its interest, it being understood and agreed that the settlement of any disputes shall be at the sole discretion of the Party having the difficulty); and (iv) when the nonperforming Party is able to resume performance of its obligations under this Agreement, that Party shall give the other Party written notice to that effect.
- d. If either Party's ability to perform cannot be corrected when the Uncontrollable Force is caused by the actions or inactions of legislative bodies, judicial bodies, or regulatory agencies or other proper authority, the Parties agree to meet in good faith to determine if this Agreement may be amended to comply with the legal or regulatory change which caused the nonperformance of the Parties.
- 10. <u>Authorization by Omnitrans</u>. Omnitrans represents that the terms and execution of this Agreement, including all Exhibits, have been duly authorized by Omnitrans' governing board and that the persons signing this Agreement on its behalf have the necessary authority to do so.
- 11. <u>Authorization by Sub-grantee</u>. Sub-grantee represents that the terms and execution of this Agreement, including all Exhibits, have been duly authorized by Sub-grantee's governing body and that the persons signing this Agreement on its behalf have the necessary authority to do so.
- 12. <u>Headings</u>. All paragraph headings throughout this Agreement are for convenience of reference only.
- 13. <u>Additional Documents</u>. Each of the Parties shall execute such additional documents as the other Party may reasonably request in order to carry out or implement any of the provisions of this Agreement, which request shall not be unreasonably refused.
- 14. <u>Litigation Expenses</u>. If after this Agreement is in effect, any action or proceeding of any nature shall be commenced seeking to enforce, construe or rescind, or otherwise relating to this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover from the other, in addition to all other sums recoverable, its reasonable litigation expenses, including reasonable attorneys' fees, expert witness fees and other related litigation expenses and costs.
- 15. Entire Agreement. This Agreement constitutes the sole and entire agreement between the Parties hereto, and no modification, alteration or amendment shall be binding unless expressed in writing and signed by the Parties. No representation, warranty, covenant, inducement or obligation not included in this Agreement shall be binding, and this Agreement supersedes all prior negotiations, agreements, arrangements and undertakings among the Parties hereto with respect to the matters set forth in this Agreement. It is the intent of the Parties that this Agreement is an integrated agreement and that no evidence may be introduced to vary in any manner its terms and conditions.
- 16. <u>Accuracy of Representations</u>. As of the date each signed this Agreement, the representations herein of both Parties are true and correct in all material respects.

6

17. <u>Originals and Copies</u>. This Agreement with the Exhibits attached hereto may be executed in counterparts, each of which shall be deemed an original. In any action or proceeding, an exact and correct copy may be used in lieu of an original.

18. Construction of Agreement.

- a. <u>Equal Construction</u>. This Agreement and the Exhibits attached hereto shall not be construed in favor of or against a Party by reason of participation or lack of participation of that Party or its counsel in the drafting of this Agreement and the Exhibits attached hereto. This Agreement and the attached Exhibits shall be interpreted and construed as drafted by all Parties with equal participation in the drafting hereof.
- b. <u>Internal Consistency</u>. The Parties intend that the terms of this Agreement and of the Exhibits are all internally consistent with each other and should be construed to that end. If any irreconcilable inconsistency shall be determined between the terms of this Agreement and the terms of any of the Exhibits attached hereto, the terms of this Agreement shall control over the terms of any of the Exhibits.
- 19. <u>Notices</u>. All notices hereunder shall be in writing and shall be effective upon receipt. All notices and communications, including invoices, between the Parties to this Agreement shall be either personally delivered, sent by first-class mail, return receipt requested, or sent by overnight express delivery service, postage or other charges fully prepaid, as follows:

TO OMNITRANS:

TO SUB-GRANTEE:

Omnitrans Central City Lutheran Mission 1700 West Fifth Street 1354 N. G Street

San Bernardino, California 92411 San Bernardino, CA 92354

Attention: Brenda Ramirez, Planner II Attention: Maria Medina, Chief Operating

Officer

20. <u>No Third Party Beneficiaries</u>. There are no third party beneficiaries to this Agreement. Other than the Parties, no person, political subdivision, agency, board, department, division or commission shall be entitled to bring an administrative or judicial proceeding to enforce or interpret its terms.

[SIGNATURES ON FOLLOWING PAGE]

SIGNATURE PAGE TO FUNDING AGREEMENT FOR JOB ACCESS REVERSE COMMUTE GRANTAND NEW FREEDOM GRANT FUNDS

IN WITNESS WHEREOF, this Agreement has been executed by the Parties hereto as of the day and year first written above.

OMNITRANS		Central City Lutheran Mission		
By:	P. Scott Graham, CEO/General Manager	By:	Signature	_
			Name Title	
	ROVED AS TO FORM: NTY COUNSEL			
Ву:	Legal Counsel			

Exhibit "A" JARC Grant Agreements

DOT



FTA

U.S. Department of Transportation

Federal Transit Administration

Part 9: Agreement

UNITED STATES OF AMERICA DEPARTMENT OF TRANSPORTATION FEDERAL TRANSIT ADMINISTRATION

GRANT AGREEMENT (FTA G-18, October 1, 2011)

On the date the authorized U.S. Department of Transportation, Federal Transit Administration (FTA) official's electronic signature is entered for this Grant Agreement, FTA has Awarded Federal assistance in support of the Project described below. Upon Execution of this Grant Agreement by the Grantee named below, the Grantee affirms this FTA Award, and enters into this Grant Agreement with FTA. The following documents are incorporated by reference and made part of this Grant Agreement:

- (1) "Federal Transit Administration Master Agreement," FTA MA(18), October 1, 2011, http://www.fta.dot.gov/documents/18-Master.pdf
- (2) The Certifications and Assurances applicable to the Project that the Grantee has selected and provided to FTA, and
- (3) Any Award notification containing special conditions or requirements, if issued.

FTA OR THE FEDERAL GOVERNMENT MAY WITHDRAW ITS OBLIGATION TO PROVIDE FEDERAL ASSISTANCE IF THE GRANTEE DOES NOT EXECUTE THIS GRANT AGREEMENT WITHIN 90 DAYS FOLLOWING THE DATE OF THIS FTA AWARD SET FORTH HEREIN.

FTA AWARD

FTA hereby awards a Federal grant as follows:

Project No: CA-37-X146-00

Grantee: OMNITRANS

Citation of Statute(s) Authorizing Project: 49 USC 5316 - Job Access and Reverse Commute/TEA-21 3037

Estimated Total Eligible Cost (in U.S. Dollars): \$2,760,692

Maximum FTA Amount Awarded [Including All Amendments] (in U.S. Dollars): \$2,208,554

Amount of This FTA Award (in U.S. Dollars): \$2,208,554

Maximum Percentage(s) of FTA Participation:

Percentages of Federal participation are based on amounts included in the Approved Project Budget, modified as set forth in the text following the Project Description.

U.S. Department of Labor Certification of Public Transportation Employee Protective Arrangements:

Original Project Certification Date: 9/26/2011

Project Description:

FY09-10 Section 5316 JARC Funds

The Project Description includes information describing the Project within the Project Application submitted to FTA, and the Approved Project Budget, modified by any additional statements displayed in this Grant Agreement, and, to the extent FTA concurs, statements in other documents including Attachments entered into TEAM-Web.

Awarded By: Leslie Rogers Regional Administrator FEDERAL TRANSIT ADMINISTRATION U.S. DEPARTMENT OF TRANSPORTATION 12/14/2011

EXECUTION OF GRANT AGREEMENT

The Grantee, by executing this Grant Agreement, affirms this FTA Award; adopts and ratifies all statements, representations, warranties, covenants, and materials it has submitted to FTA; consents to this FTA Award; and agrees to all terms and conditions set forth in this Grant Agreement.

By executing this Grant Agreement, I am simultaneously executing any Supplemental Agreement that may be required to effectuate this Grant Agreement.

Executed by: Milo Victoria CEO/General Manager OMNITRANS 12/19/2011

--- Page 1 ---

SUPPLEMENTAL AGREEMENT
(Attachment to FTA G-18, October 1, 2011)

It is the practice of the Federal Transit Administration to enter into a formal agreement with the Designated Recipient for projects that the Designated Recipient does not carry out directly. Under this Grant Agreement, the Grant Recipient is not the Designated Recipient. Therefore, the Designated Recipient hereby agrees to permit the Grant Recipient under this Grant Agreement to receive and dispense the Federal assistance funds described in this Grant Agreement. The Designated Recipient further agrees that the Grant Recipient shall assume all responsibilities set forth in this Grant Agreement.

The Federal Government and the Grant Recipient under this Grant Agreement hereby agree that the Designated Recipient is not in any manner subject to or responsible for the terms and conditions of this

Grant Agreement and is a party to this Grant Agreement only to assign the right to receive and dispense Federal funds to the Grant Recipient as described above.

FTA Official: Leslie Rogers Regional Administrator FEDERAL TRANSIT ADMINISTRATION U.S. DEPARTMENT OF TRANSPORTATION

Designated Recipient:
Rosemary Ayala
Senior Administrative Officer
SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS

Grant Recipient: Milo Victoria CEO/General Manager OMNITRANS 12/19/2011

Exhibit "B" NF Grant Agreement

DOT



FTA

U.S. Department of Transportation

Federal Transit Administration

Part 9: Agreement

UNITED STATES OF AMERICA DEPARTMENT OF TRANSPORTATION FEDERAL TRANSIT ADMINISTRATION

GRANT AGREEMENT (FTA G-17, October 1, 2010)

On the date the authorized U.S. Department of Transportation, Federal Transit Administration (FTA) official's electronic signature is entered for this Grant Agreement, FTA has Awarded Federal assistance in support of the Project described below. Upon Execution of this Grant Agreement by the Grantee named below, the Grantee affirms this FTA Award, and enters into this Grant Agreement with FTA. The following documents are incorporated by reference and made part of this Grant Agreement:

- "Federal Transit Administration Master Agreement," FTA MA(17), October 1, 2010, http://www.fta.dot.gov/documents/17-Master.pdf
- (2) The Certifications and Assurances applicable to the Project that the Grantee has selected and provided to FTA, and
- (3) Any Award notification containing special conditions or requirements, if issued.

FTA OR THE FEDERAL GOVERNMENT MAY WITHDRAW ITS OBLIGATION TO PROVIDE FEDERAL ASSISTANCE IF THE GRANTEE DOES NOT EXECUTE THIS GRANT AGREEMENT WITHIN 90 DAYS FOLLOWING THE DATE OF THIS FTA AWARD SET FORTH HEREIN.

FTA AWARD

FTA hereby awards a Federal grant as follows:

Project No: CA-57-X062-00

Grantee: OMNITRANS

Citation of Statute(s) Authorizing Project: 49 USC 5317 - New Freedom

Estimated Total Eligible Cost (in U.S. Dollars): \$1,152,966

Maximum FTA Amount Awarded [Including All Amendments] (in U.S. Dollars): \$922,373

Amount of This FTA Award (in U.S. Dollars): \$922,373

Maximum Percentage(s) of FTA Participation:

Percentages of Federal participation are based on amounts included in the Approved Project Budget, modified as set forth in the text following the Project Description.

U.S. Department of Labor Certification of Public Transportation Employee Protective Arrangements:

Original Project Certification Date:

Project Description:

FY09-10 - 5317 New Freedom Funds

The Project Description includes information describing the Project within the Project Application submitted to FTA, and the Approved Project Budget, modified by any additional statements displayed in this Grant Agreement, and, to the extent FTA concurs, statements in other documents including Attachments entered into TEAM-Web.

Awarded By: Leslie Rogers Regional Administrator FEDERAL TRANSIT ADMINISTRATION U.S. DEPARTMENT OF TRANSPORTATION 09/23/2011

EXECUTION OF GRANT AGREEMENT

The Grantee, by executing this Grant Agreement, affirms this FTA Award; adopts and ratifies all statements, representations, warranties, covenants, and materials it has submitted to FTA; consents to this FTA Award; and agrees to all terms and conditions set forth in this Grant Agreement.

By executing this Grant Agreement, I am simultaneously executing any Supplemental Agreement that may be required to effectuate this Grant Agreement.

Executed by: Milo Victoria CEO/General Manager OMNITRANS 09/28/2011

--- Page 1 ---

 UNITED STATES OF AMERICA DEPARTMENT OF TRANSPORTATION FEDERAL TRANSIT ADMINISTRATION

SUPPLEMENTAL AGREEMENT
(Attachment to FTA G-17, October 1, 2010)

It is the practice of the Federal Transit Administration to enter into a formal agreement with the Designated Recipient for projects that the Designated Recipient does not carry out directly. Under this Grant Agreement, the Grant Recipient is not the Designated Recipient. Therefore, the Designated Recipient hereby agrees to permit the Grant Recipient under this Grant Agreement to receive and dispense the Federal assistance funds described in this Grant Agreement. The Designated Recipient further agrees that the Grant Recipient shall assume all responsibilities set forth in this Grant Agreement.

The Federal Government and the Grant Recipient under this Grant Agreement hereby agree that the Designated Recipient is not in any manner subject to or responsible for the terms and conditions of this

Grant Agreement and is a party to this Grant Agreement only to assign the right to receive and dispense Federal funds to the Grant Recipient as described above.

FTA Official: Leslie Rogers Regional Administrator FEDERAL TRANSIT ADMINISTRATION U.S. DEPARTMENT OF TRANSPORTATION

Designated Recipient:
Rosemary Ayala
Senior Administrative Officer
SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS

Grant Recipient: Milo Victoria CEO/General Manager OMNITRANS 09/28/2011



1700 W. Fifth St. San Bernardino, CA 92411 909-379-7100 www.omnitrans.org

ITEM # **E9**

DATE: April 9, 2014

TO: Board Chair Alan Wapner and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Anna Rahtz, Acting Director of Planning and Development Services

SUBJECT: FUNDING AGREEMENT BETWEEN VICTOR VALLEY TRANSIT

AUTHORITY AND OMNITRANS

FORM MOTION

Authorize the CEO/General Manager to execute the funding agreement between Omnitrans and Victor Valley Transit Authority for \$232,761 of Section 5316 Job Access Reverse Commute (JARC) and Section 5317 New Freedom (NF) federal funds awarded through SANBAG's 2013 Call for Projects.

This item was reviewed by the Plans and Programs Committee at its February 26, 2014 meeting, and recommended to the Board of Directors for approval. This item was also reviewed and approved by Omnitrans legal counsel.

BACKGROUND

On October 2, 2013, SANBAG's Board of Directors awarded Victor Valley Transit Authority (VVTA) a total of \$232,761 in Section 5316 Job Access Reverse Commute (JARC) and Section 5317 New Freedom (NF) funds for the expansion of their BV-Link/SB-Lifeline service through the 2013 Call for Projects. VVTA's BV-Link/SB-Lifeline commuter service operates between the cities of Victorville and Barstow, the National Training Center at Ft. Irwin, San Bernardino, and Fontana. The expansion allows the service to increase the operating days from 3 to 5 days a week for a total of 25 trips per week.

These funds are part of a pass-through of Federal Transit Administration grants CA-37-X146, CA-57-X017, and CA-57-X062. The budget identifies \$167,429 in FTA Section 5316 JARC funding and \$65,332 in Section 5317 NF funding. Local funding will be matched by LTF (Local Transportation Funds) and fare media funding. As the FTA grant recipient, Omnitrans will receive approximately \$9,310 for administrative costs and grant oversight.

FUNDING SOURCES

Funding for this grant pass through is as follows:

FUNDING	GRANT	YEAR	PROJECT NAME	INTERNAL ORDER	AMOUNT
FTA	CA-37-X146	2010	VVTA	G10L0019F	\$167,429
FTA	CA-57-X062	2010	VVTA	G10L0N19F	\$ 65,332
Total					\$232,761

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

CONCLUSION

Staff requests the Board of Directors to authorize the CEO/General Manager to execute the funding agreement between Omnitrans and VVTA as part of SANBAG's 2013 Call for Projects pass-through award.

PSG:AR:JB:BR

SUBGRANTEE FUNDING AGREEMENT FOR JOB ACCESS REVERSE COMMUTE GRANT, NEW FREEDOM GRANT FUNDS

DUNs identification number 02-0849266

This Funding Agreement for Job Access Reverse Commute and New Freedom grant funds ("Agreement") by and between Victor Valley Transit Authority ("Sub-grantee") and Omnitrans, a joint powers authority ("Omnitrans"), is entered into this __ day of ______, 2014. Sub-grantee and Omnitrans are sometimes individually referred to as "Party" and collectively as "Parties."

Recitals

- A. This Agreement describes the respective responsibilities of Sub-grantee and Omnitrans for capital and operating expenses in connection with Omnitrans Fiscal Year 2011 Section 5316 Job Access Reverse Commute (JARC) Grant Agreement attached hereto as **Exhibit A** (the "JARC Grant Agreement") and Omnitrans Fiscal Year 2011 Section 5317 New Freedom (NF) Grant Agreement attached hereto as **Exhibit B** (the "NF Grant Agreement") (referred to collectively herein as "Grant Agreements").
- B. Omnitrans previously submitted a grant application for Section 5316 JARC funds for Fiscal Year 2011 and Section 5317 NF funds for Fiscal Year 2011to the Federal Transit Administration ("FTA"). The FTA awarded Omnitrans Section 5316 JARC (CFDA 20.516) funds and Section 5317 NF (CFDA 20.521) funds for Fiscal Year 2011 in the amounts shown in the Grant Agreements (the "Total FTA Grant Amount"). The Parties now desire that the JARC and NF funds awarded to Omnitrans be used for the benefit of Sub-grantee, as a sub-grantee under the Grant Agreements.
- C. Sub-grantee desires to expand Victor Valley Transit Authority's SB-Lifeline and B-V Link services to include additional weekday trips from Victorville to San Bernardino (the "**Project**"). These life line services connect residents of the Victor Valley and Barstow areas to the greater San Bernardino Valley.
- D. As a Sub-grantee receiving JARC and NF funds, Sub-grantee desires to undertake the Project and comply with all provisions of the Grant Agreements and applicable federal, state and local laws and regulations ("Applicable Law").

NOW THEREFORE, based on the forgoing recitals and the following promises and covenants the Parties agree:

- 1. <u>Obligations of Omnitrans</u>. Pursuant to, and to the extent provided in, this Agreement, Omnitrans shall take the following actions:
 - a. Reimburse Sub-grantee for the Project, up to \$167,429 in Section 5316 JARC funds (Grant No. CA-37-X146), up to \$65,332 in Section 5317 NF funds (CA-57-X062) (the **"Project Funds"**) in conformity with the following procedure:
 - (1) For each disbursement requested, Sub-grantee shall provide a written invoice to Omnitrans specifying the amount requested to be disbursed and the purpose of the disbursement, and shall provide such additional supporting documentation and background information as Omnitrans may reasonably require (the "Disbursement Request") by no later than the 15th of each month.

- (2) Each Disbursement Request shall be accompanied by a written certification of Sub-grantee's Executive Director that such disbursement will not constitute any violation of the terms of the Grant Agreements, or of Applicable Law, and that Sub-grantee will use the disbursement for the purpose indicated in the Disbursement Request.
- (3) Within five (5) business days of the receipt of an invoice and accompanying certification, Omnitrans shall notify Sub-grantee as to what, if any, additional supporting documentation and background information it requires.
- (4) Within the first week of the following month after invoice submittal to Omnitrans pursuant to above, Omnitrans shall: (i) disburse (including through electronic transfer of funds, if so requested and if Sub-grantee provides the necessary information) the amount requested, unless Omnitrans provides written notice that it cannot disburse such amount without violating the terms of either the Grant Agreements or of Applicable Law; or (ii) notify Sub-grantee through written notice as to why it is unable to disburse some or all of the requested funds without violating the terms of either the Grant Agreements or Applicable Law.
- (5) To the extent that the FTA advises Omnitrans that a disbursement would constitute a violation of the terms of either the Grant Agreements or Applicable Law, Omnitrans shall have no obligation to disburse such funds. Notwithstanding any Sub-grantee certification, Omnitrans may solicit, at Sub-grantee expense, a legal opinion from competent counsel of its choice if Omnitrans has a good faith and reasonable question about whether a disbursement will result in a violation of the terms of the Grant Agreements or of Applicable Law.
- (6) Omnitrans shall have no liability to Sub-grantee for any refusal to disburse funds so long as Omnitrans has documented and provided written notice to Sub-grantee that such disbursement would constitute a violation of the terms of the Grant Agreements or Applicable Law.
- b. Prepare and submit to the FTA on a timely basis all required periodic reports and milestone updates, so long as it timely receives all necessary information from Subgrantee.
- c. Conduct itself so that any aspect of Omnitrans' participation in this Agreement and the actions required of it hereunder, will be in compliance with the terms of the Grant Agreements and with Applicable Law.
- d. Comply with all requirements of the FTA Master Agreement, found at http://www.fta.dot.gov/documents/16-Master.pdf.
- 2. Payment of Administrative Expenses of Omnitrans. As compensation for the obligations undertaken by Omnitrans pursuant to the terms of this Agreement, an indirect overhead charge will be charged to and paid from Section 5316 JARC funds (Grant No. CA-37-X146) and Section 5317 NF funds (Grant No. CA-57-X062) to account for all administration costs associated with managing the Project (the "Administrative Expenses"). Omnitrans will deduct an amount equal to 4% of the Project Funds (\$9,310.44) from the Total FTA Grant Amounts Administrative Expenses. Project Funds shall not be used for the Administrative Expenses.

- 3. <u>Warranties of Sub-grantee</u>. Sub-grantee warrants to Omnitrans that:
 - a. Sub-grantee has or will have, prior to the necessity of expending them, all funds necessary to provide the local matching funds required to receive the FTA Section 5316 JARC and Section 5317 NF grant funds (the "Match Obligation"). The approximate amount of the Match Obligation for the Project is \$232,761.
 - b. To Sub-grantee's knowledge, Omnitrans' prior submission of the FTA Section 5316 JARC and Section 5317 NF grant application on behalf of Sub-grantee has not and will not violate the terms of the Grant Agreements or any provision of the Applicable Law.
 - c. Sub-grantee will conduct itself so that all aspects of the Project and any aspect of Sub-grantee's participation in this Agreement, including the actions contemplated by this Agreement, will be in compliance with the terms of the Grant Agreements and with Applicable Law.
 - d. Sub-grantee will use the disbursements for the purposes indicated in its Disbursement Request.
 - e. Sub-grantee will agree to comply with 49 U.S.C. § 5323(j) and FTA regulations, "Buy America Requirements," 49 C.F.R. Part 661, and any amendments thereto.
 - f. Sub-grantee will comply with all requirements of the FTA Master Agreement, found at http://www.fta.dot.gov/documents/16-Master.pdf, including submission to Omnitrans on a quarterly basis, of reports that document the status of the Project's implementation progress, including task completion status, budget status, and adherence to the Project, as defined in the grant applications.
- 4. <u>Obligations of Sub-grantee</u>. Pursuant to, and to the extent provided in, this Agreement, Subgrantee shall take the following actions:
 - a. Provide Omnitrans all information that is reasonably needed for Omnitrans' performance of its obligations hereunder and pursuant to the Grant Agreements.
 - b. Satisfy Sub-grantee's Match Obligation and submit evidence of the dollar amount and source(s) of the funds, as Omnitrans may reasonably require. Sub-grantee may utilize its payment of staff salaries, benefits and expenses in administrative support for the Project to satisfy its Match Obligation.
 - c. Notify Omnitrans of any changes in the scope or description of the Project.
 - d. Certify to Omnitrans for each Disbursement Request that, to the best of Sub-grantee's knowledge, such disbursement will not constitute any violation of either the provisions of the Grant Agreements or of Applicable Law and that Sub-grantee will use the disbursement as indicated in the Disbursement Request found in Section 1.
 - e. Provide to Omnitrans all information needed for quarterly Project reporting and milestone updates in a timely manner to allow Omnitrans enough time to prepare and submit to the FTA on a timely basis all required or requested FTA reports and updates. In no event shall such reports be received later than fifteen (15) days prior to the required date of submission to the FTA of such report or update, provided Omnitrans has provided

- Sub-grantee with notice of the required date of submission no less than thirty (30) days prior to the required date of submission to the FTA.
- f. Ensure that all aspects of the Project and any aspect of Sub-grantee's participation in this Agreement and the actions contemplated of Sub-grantee by this Agreement will be in compliance with the terms of the Grant Agreements and with all Applicable Law.
- g. Sub-grantee shall provide Omnitrans the required signed Self-Certification Form by July 31 of each year, in accordance with FTA audit requirements.
- h. Sub-grantee shall provide Omnitrans a copy of its annual single audit for each fiscal year, in accordance with FTA audit requirements.
- i. The Sub-grantee shall comply with all applicable sections of FTA Circular 5010.1d pertaining to the management of federally funded assets. The Sub-grantee will provide all necessary information to Omnitrans so that Omnitrans can coordinate with the FTA related to the requirements in Circular 5010.1d.
- 5. Exercise of Rights under the Agreement. The CEO/General Manager of Omnitrans, or his or her designee, shall exercise the rights of Omnitrans under this Agreement including, without limitation, accepting the certifications of Sub-grantee required under the terms of this Agreement. The Chief Executive Officer of Sub-grantee, or his or her designee, shall exercise the rights of Sub-grantee under this Agreement; however, any certifications of Sub-grantee required under the terms of this Agreement shall be provided only by the Chief Executive Officer or such other representative of Sub-grantee as is specified by action of the Sub-grantee's governing body.
- 6. <u>Insurance</u>. Sub-grantee shall require all contractors or consultants hired to perform work or services on the Project to obtain, and require their sub-consultants and sub-contractors to obtain, insurance of the types and in the amounts described below and satisfactory to Omnitrans. Such insurance shall be maintained throughout the term of this Agreement, or until completion of the Project, whichever occurs last.
 - a. <u>Commercial General Liability Insurance</u>. Occurrence version commercial general liability insurance or equivalent form with a combined single limit of not less than \$1,000,000.00 per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to the Project or be no less than two times the occurrence limit. Such insurance shall:
 - (1) Name Omnitrans, its officials, officers, employees, agents, and consultants as insured with respect to performance of the work or services on the Project and shall contain no special limitations on the scope of coverage or the protection afforded to these insured;
 - (2) Be primary with respect to any insurance or self-insurance programs covering Omnitrans, its officials, officers, employees, agents, and consultants; and
 - (3) Contain standard separation of insured provisions.
 - b. <u>Business Automobile Liability Insurance</u>. Business automobile liability insurance or equivalent form with a combined single limit of not less than \$1,000,000.00 per occurrence. Such insurance shall include coverage for owned, hired and non-owned automobiles.

- c. <u>Professional Liability Insurance</u>. Errors and omissions liability insurance with a limit of not less than \$1,000,000.00. Professional liability insurance shall only be required of design or engineering professionals.
- d. <u>Workers' Compensation Insurance</u>. Workers' compensation insurance with statutory limits and employers' liability insurance with limits of not less than \$1,000,000.00 each accident.
- 7. Mutual Indemnification. Omnitrans and Sub-grantee shall defend, indemnify and hold the other Party, its officials, officers, employees, agents, and consultants free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, to the extent arising out of or incident to any intentional or negligent acts, errors or omissions of the indemnifying Party, its officials, officers, employees, agents, and consultants related to a breach of this Agreement or any act or omission arising out of the activities governed by this Agreement. The indemnifying Party's obligation to indemnify includes without limitation the payment of all consequential damages and reasonable attorneys' fees, expert witness fees and other related costs and expenses of defense. The sole exception to the indemnifying Party's obligation to indemnify shall be for acts of negligence or willful misconduct of the indemnified Party, its officials, officers, employees, agents, and consultants. This is a comparative negligence provision and each Party shall bear their own costs to the extent to which they are each negligent. The indemnifying Party shall defend, at its own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against the indemnified Party, its officials, officers, employees, agents, and consultants. The indemnifying Party shall pay and satisfy any judgment, award or decree that may be rendered against the indemnified Party, its officials, officers, employees, agents, and consultants in any such suits, actions or other legal proceedings. A Party's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the other Party, its officials, officers, employees, agents, and consultants.
- 8. <u>Term.</u> This Agreement shall terminate upon the completion of the disbursement of the Project Funds to Sub-grantee and the completion of all reports, updates or any other documentation or responsibility of Omnitrans related to the Project. In all events, this Agreement shall terminate within the time limits set forth in applicable FTA procedures and regulations, but in no event later than three (3) years from the date of the Agreement's execution date.

9. <u>Force Majeure</u>.

- a. An "Uncontrollable Force" (force majeure) is any occurrence beyond the control of a Party which causes that Party to be unable to perform its obligations hereunder and which a Party has been unable to overcome by the exercise of due diligence, including but not limited to, flood, drought, earthquake, storm, fire, pestilence, lightning and other natural catastrophes, epidemic, war, riot, civil disturbance or disobedience, strike, labor dispute, action or inaction of legislative bodies, judicial bodies, or regulatory agencies, or other proper authority, excepting the governing body of the Party asserting the Uncontrollable Force, which may conflict with the terms of this Agreement. In no event shall any Uncontrollable Force excuse the obligation to issue disbursements to Sub-grantee as soon as Omnitrans is reasonably able to do so.
- b. Subject to Section 9a, neither Party shall be considered to be in default in the performance of any of the obligations contained in this Agreement when and to the extent failure of performance shall be caused by an Uncontrollable Force.

- c. If either Party, because of an Uncontrollable Force, is rendered wholly or partly unable to perform its obligations under this Agreement, the Party shall be excused from whatever performance is affected by the Uncontrollable Force to the extent so affected, provided that: (i) the nonperforming Party within one week after the occurrence of the Uncontrollable Force, gives the other Party written notice describing the particulars of the occurrence; (ii) the suspension of performance is of no greater scope and of no longer duration than is required by the Uncontrollable Force; (iii) the nonperforming Party uses its best efforts to remedy its inability to perform (this subsection shall not require the settlement of any strike, walkout, lockout, other labor disputes or any other dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to its interest, it being understood and agreed that the settlement of any disputes shall be at the sole discretion of the Party having the difficulty); and (iv) when the nonperforming Party is able to resume performance of its obligations under this Agreement, that Party shall give the other Party written notice to that effect.
- d. If either Party's ability to perform cannot be corrected when the Uncontrollable Force is caused by the actions or inactions of legislative bodies, judicial bodies, or regulatory agencies or other proper authority, the Parties agree to meet in good faith to determine if this Agreement may be amended to comply with the legal or regulatory change which caused the nonperformance of the Parties.
- 10. <u>Authorization by Omnitrans</u>. Omnitrans represents that the terms and execution of this Agreement, including all Exhibits, have been duly authorized by Omnitrans' governing board and that the persons signing this Agreement on its behalf have the necessary authority to do so.
- 11. <u>Authorization by Sub-grantee</u>. Sub-grantee represents that the terms and execution of this Agreement, including all Exhibits, have been duly authorized by Sub-grantee's governing body and that the persons signing this Agreement on its behalf have the necessary authority to do so.
- 12. <u>Headings</u>. All paragraph headings throughout this Agreement are for convenience of reference only.
- 13. <u>Additional Documents</u>. Each of the Parties shall execute such additional documents as the other Party may reasonably request in order to carry out or implement any of the provisions of this Agreement, which request shall not be unreasonably refused.
- 14. <u>Litigation Expenses</u>. If after this Agreement is in effect, any action or proceeding of any nature shall be commenced seeking to enforce, construe or rescind, or otherwise relating to this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover from the other, in addition to all other sums recoverable, its reasonable litigation expenses, including reasonable attorneys' fees, expert witness fees and other related litigation expenses and costs.
- 15. Entire Agreement. This Agreement constitutes the sole and entire agreement between the Parties hereto, and no modification, alteration or amendment shall be binding unless expressed in writing and signed by the Parties. No representation, warranty, covenant, inducement or obligation not included in this Agreement shall be binding, and this Agreement supersedes all prior negotiations, agreements, arrangements and undertakings among the Parties hereto with respect to the matters set forth in this Agreement. It is the intent of the Parties that this Agreement is an integrated agreement and that no evidence may be introduced to vary in any manner its terms and conditions.

- 16. <u>Accuracy of Representations</u>. As of the date each signed this Agreement, the representations herein of both Parties are true and correct in all material respects.
- 17. <u>Originals and Copies</u>. This Agreement with the Exhibits attached hereto may be executed in counterparts, each of which shall be deemed an original. In any action or proceeding, an exact and correct copy may be used in lieu of an original.
- 18. Construction of Agreement.
 - a. <u>Equal Construction</u>. This Agreement and the Exhibits attached hereto shall not be construed in favor of or against a Party by reason of participation or lack of participation of that Party or its counsel in the drafting of this Agreement and the Exhibits attached hereto. This Agreement and the attached Exhibits shall be interpreted and construed as drafted by all Parties with equal participation in the drafting hereof.
 - b. <u>Internal Consistency</u>. The Parties intend that the terms of this Agreement and of the Exhibits are all internally consistent with each other and should be construed to that end. If any irreconcilable inconsistency shall be determined between the terms of this Agreement and the terms of any of the Exhibits attached hereto, the terms of this Agreement shall control over the terms of any of the Exhibits.
- 19. <u>Notices</u>. All notices hereunder shall be in writing and shall be effective upon receipt. All notices and communications, including invoices, between the Parties to this Agreement shall be either personally delivered, sent by first-class mail, return receipt requested, or sent by overnight express delivery service, postage or other charges fully prepaid, as follows:

TO OMNITRANS:

TO SUB-GRANTEE:

Omnitrans 1700 West Fifth Street San Bernardino, California 92411 Attention: Brenda Ramirez, Planner II

Victor Valley Transit Authority 17150 Smoke Tree Street Hesperia, CA 92345

Attention: Kevin Kane, General Manager

20. <u>No Third Party Beneficiaries</u>. There are no third party beneficiaries to this Agreement. Other than the Parties, no person, political subdivision, agency, board, department, division or commission shall be entitled to bring an administrative or judicial proceeding to enforce or interpret its terms.

[SIGNATURES ON FOLLOWING PAGE]

SIGNATURE PAGE TO FUNDING AGREEMENT FOR JOB ACCESS REVERSE COMMUTE GRANT, NEW FREEDOM GRANT AND BUS AND BUS FACILITIES LIVABILITY INITIATIVE GRANT

IN WITNESS WHEREOF, this Agreement has been executed by the Parties hereto as of the day and year first written above.

OMNITRANS	Victor	r Valley Transit Authority
By: P. Scott Graham, CEO/General Manager	By:	Signature
1. Scott Granani, CLO/ Generalivianager		Name
		Title
APPROVED AS TO FORM: COUNTY COUNSEL		
COUNTY COUNSEL		
By:	_	
Legal Counsel		

Exhibit "A" JARC Grant Agreements

DOT



FTA

U.S. Department of Transportation

Federal Transit Administration

Part 9: Agreement

UNITED STATES OF AMERICA DEPARTMENT OF TRANSPORTATION FEDERAL TRANSIT ADMINISTRATION

GRANT AGREEMENT (FTA G-18, October 1, 2011)

On the date the authorized U.S. Department of Transportation, Federal Transit Administration (FTA) official's electronic signature is entered for this Grant Agreement, FTA has Awarded Federal assistance in support of the Project described below. Upon Execution of this Grant Agreement by the Grantee named below, the Grantee affirms this FTA Award, and enters into this Grant Agreement with FTA. The following documents are incorporated by reference and made part of this Grant Agreement:

- (1) "Federal Transit Administration Master Agreement," FTA MA(18), October 1, 2011, http://www.fta.dot.gov/documents/18-Master.pdf
- (2) The Certifications and Assurances applicable to the Project that the Grantee has selected and provided to FTA, and
- (3) Any Award notification containing special conditions or requirements, if issued.

FTA OR THE FEDERAL GOVERNMENT MAY WITHDRAW ITS OBLIGATION TO PROVIDE FEDERAL ASSISTANCE IF THE GRANTEE DOES NOT EXECUTE THIS GRANT AGREEMENT WITHIN 90 DAYS FOLLOWING THE DATE OF THIS FTA AWARD SET FORTH HEREIN.

FTA AWARD

FTA hereby awards a Federal grant as follows:

Project No: CA-37-X146-00

Grantee: OMNITRANS

Citation of Statute(s) Authorizing Project: 49 USC 5316 - Job Access and Reverse Commute/TEA-21 3037

Estimated Total Eligible Cost (in U.S. Dollars): \$2,760,692

Maximum FTA Amount Awarded [Including All Amendments] (in U.S. Dollars): \$2,208,554

Amount of This FTA Award (in U.S. Dollars): \$2,208,554

Maximum Percentage(s) of FTA Participation:

Percentages of Federal participation are based on amounts included in the Approved Project Budget, modified as set forth in the text following the Project Description.

U.S. Department of Labor Certification of Public Transportation Employee Protective Arrangements:

Original Project Certification Date: 9/26/2011

Project Description:

FY09-10 Section 5316 JARC Funds

The Project Description includes information describing the Project within the Project Application submitted to FTA, and the Approved Project Budget, modified by any additional statements displayed in this Grant Agreement, and, to the extent FTA concurs, statements in other documents including Attachments entered into TEAM-Web.

Awarded By: Leslie Rogers Regional Administrator FEDERAL TRANSIT ADMINISTRATION U.S. DEPARTMENT OF TRANSPORTATION 12/14/2011

EXECUTION OF GRANT AGREEMENT

The Grantee, by executing this Grant Agreement, affirms this FTA Award; adopts and ratifies all statements, representations, warranties, covenants, and materials it has submitted to FTA; consents to this FTA Award; and agrees to all terms and conditions set forth in this Grant Agreement.

By executing this Grant Agreement, I am simultaneously executing any Supplemental Agreement that may be required to effectuate this Grant Agreement.

Executed by: Milo Victoria CEO/General Manager OMNITRANS 12/19/2011

--- Page 1 ---

SUPPLEMENTAL AGREEMENT
(Attachment to FTA G-18, October 1, 2011)

It is the practice of the Federal Transit Administration to enter into a formal agreement with the Designated Recipient for projects that the Designated Recipient does not carry out directly. Under this Grant Agreement, the Grant Recipient is not the Designated Recipient. Therefore, the Designated Recipient hereby agrees to permit the Grant Recipient under this Grant Agreement to receive and dispense the Federal assistance funds described in this Grant Agreement. The Designated Recipient further agrees that the Grant Recipient shall assume all responsibilities set forth in this Grant Agreement.

The Federal Government and the Grant Recipient under this Grant Agreement hereby agree that the Designated Recipient is not in any manner subject to or responsible for the terms and conditions of this

Grant Agreement and is a party to this Grant Agreement only to assign the right to receive and dispense Federal funds to the Grant Recipient as described above.

FTA Official:
Leslie Rogers
Regional Administrator
FEDERAL TRANSIT ADMINISTRATION
U.S. DEPARTMENT OF TRANSPORTATION

Designated Recipient:
Rosemary Ayala
Senior Administrative Officer
SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS

Grant Recipient: Milo Victoria CEO/General Manager OMNITRANS 12/19/2011

Exhibit "B" NF Grant Agreement

DOT



FTA

U.S. Department of Transportation

Federal Transit Administration

Part 9: Agreement

UNITED STATES OF AMERICA DEPARTMENT OF TRANSPORTATION FEDERAL TRANSIT ADMINISTRATION

GRANT AGREEMENT (FTA G-17, October 1, 2010)

On the date the authorized U.S. Department of Transportation, Federal Transit Administration (FTA) official's electronic signature is entered for this Grant Agreement, FTA has Awarded Federal assistance in support of the Project described below. Upon Execution of this Grant Agreement by the Grantee named below, the Grantee affirms this FTA Award, and enters into this Grant Agreement with FTA. The following documents are incorporated by reference and made part of this Grant Agreement:

(1) "Federal Transit Administration Master Agreement," FTA MA(17), October 1, 2010, http://www.fta.dot.gov/documents/17-Master.pdf

(2) The Certifications and Assurances applicable to the Project that the Grantee has selected and provided to FTA, and

(3) Any Award notification containing special conditions or requirements, if issued.

FTA OR THE FEDERAL GOVERNMENT MAY WITHDRAW ITS OBLIGATION TO PROVIDE FEDERAL ASSISTANCE IF THE GRANTEE DOES NOT EXECUTE THIS GRANT AGREEMENT WITHIN 90 DAYS FOLLOWING THE DATE OF THIS FTA AWARD SET FORTH HEREIN.

FTA AWARD

FTA hereby awards a Federal grant as follows:

Project No: CA-57-X062-00

Grantee: OMNITRANS

Citation of Statute(s) Authorizing Project: 49 USC 5317 - New Freedom

Estimated Total Eligible Cost (in U.S. Dollars): \$1,152,966

Maximum FTA Amount Awarded [Including All Amendments] (in U.S. Dollars): \$922,373

Amount of This FTA Award (in U.S. Dollars): \$922,373

Maximum Percentage(s) of FTA Participation:

Percentages of Federal participation are based on amounts included in the Approved Project Budget, modified as set forth in the text following the Project Description.

U.S. Department of Labor Certification of Public Transportation Employee Protective Arrangements:

Original Project Certification Date:

Project Description:

FY09-10 - 5317 New Freedom Funds

The Project Description includes information describing the Project within the Project Application submitted to FTA, and the Approved Project Budget, modified by any additional statements displayed in this Grant Agreement, and, to the extent FTA concurs, statements in other documents including Attachments entered into TEAM-Web.

Awarded By: Leslie Rogers Regional Administrator FEDERAL TRANSIT ADMINISTRATION U.S. DEPARTMENT OF TRANSPORTATION 09/23/2011

EXECUTION OF GRANT AGREEMENT

The Grantee, by executing this Grant Agreement, affirms this FTA Award; adopts and ratifies all statements, representations, warranties, covenants, and materials it has submitted to FTA; consents to this FTA Award; and agrees to all terms and conditions set forth in this Grant Agreement.

By executing this Grant Agreement, I am simultaneously executing any Supplemental Agreement that may be required to effectuate this Grant Agreement.

Executed by: Milo Victoria CEO/General Manager OMNITRANS 09/28/2011

--- Page 1 ---

 UNITED STATES OF AMERICA DEPARTMENT OF TRANSPORTATION FEDERAL TRANSIT ADMINISTRATION

SUPPLEMENTAL AGREEMENT
(Attachment to FTA G-17, October 1, 2010)

It is the practice of the Federal Transit Administration to enter into a formal agreement with the Designated Recipient for projects that the Designated Recipient does not carry out directly. Under this Grant Agreement, the Grant Recipient is not the Designated Recipient. Therefore, the Designated Recipient hereby agrees to permit the Grant Recipient under this Grant Agreement to receive and dispense the Federal assistance funds described in this Grant Agreement. The Designated Recipient further agrees that the Grant Recipient shall assume all responsibilities set forth in this Grant Agreement.

The Federal Government and the Grant Recipient under this Grant Agreement hereby agree that the Designated Recipient is not in any manner subject to or responsible for the terms and conditions of this

Grant Agreement and is a party to this Grant Agreement only to assign the right to receive and dispense Federal funds to the Grant Recipient as described above.

FTA Official: Leslie Rogers Regional Administrator FEDERAL TRANSIT ADMINISTRATION U.S. DEPARTMENT OF TRANSPORTATION

Designated Recipient: Rosemary Ayala Senior Administrative Officer SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS

Grant Recipient: Milo Victoria CEO/General Manager OMNITRANS 09/28/2011



1700 W. Fifth St. San Bernardino, CA 92411 909-379-7100 www.omnitrans.org

ITEM # **E10**

DATE: April 9, 2014

TO: Board Chair Alan Wapner and Members of the Omnitrans Board of Directors

FROM: P. Scott Graham, CEO/General Manager

SUBJECT: AMEND BOARD STIPEND POLICY

FORM MOTION

Approve amendment to the Board Stipend Policy to remove the four meeting per month cap and authorize payment of \$125 per Board/Policy Committee meeting attended by Board Members.

This item was reviewed by the Administrative and Finance Committee at its March 13, 2014, meeting and recommended for approval.

BACKGROUND

In December 2005, the Board adopted the policy for payment of meeting stipend to Board Members that authorized the payment of \$125 per meeting, up to a maximum of four Board or policy committee meetings per month.

With the recent addition of the Operations and Safety policy committee, the set monthly schedule of the Executive Committee and the fact that several Board Members sit on more than one Committee, a Board Member may exceed the four meeting per month cap.

This matter was discussed with the Board Chair and Vice Chair and received their concurrence to bring forward to the Administrative and Finance Committee for consideration.

The initial recommendation presented to the Committee for consideration was to authorize the Board Chair to approve additional stipend payment to Board Members, on a case by case basis, if the Board Member exceeded the established four meeting per month cap. Discussion at the Committee Meeting carried forward the recommendation to remove the four meeting per month cap for consideration by the Board of Directors.

FUNDING SOURCE

The impact to the Administration Department's operating budget is expected to be very minimal, with a maximum annual cost projected of not more than \$1,500.

Board Chair Alan Wapner and Members of the Omnitrans Board of Directors April 9, $2014 - Page\ 2$

Department 1300 Expenditure Code 509020

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

CONCLUSION

Amending the Board-adopted policy to remove the four meeting per month cap for attending Omnitrans' Board/Policy Committee meetings will ensure that Board Members are paid the \$125 per meeting stipend for meetings attended each month.

PSG:VD



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ITEM#_____E11

DATE: April 9, 2014

TO: Board Chair Alan Wapner and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Donald Walker, Director of Finance

SUBJECT: POLICY FOR INCURRED BUT NOT REPORTED (IBNR)

WORKERS' COMPENSATION AND LIABILITY CLAIMS

FORM MOTION

Adopt Omnitrans' Workers' Compensation and Liability Risk Management Policy that authorizes the CEO/General Manager to determine appropriate confidence level for Workers' Compensation and Liability Claims each year.

This item was reviewed by the Administrative & Finance Committee at the March 13, 2014 meeting, and recommended to the Board of Directors for approval.

BACKGROUND

Establishing a policy for reporting Incurred But Not Reported (IBNR) was a recommendation by Omnitrans' FY2013 financial auditors Vavrinek, Trine, Day & Co., LLP.

Governmental Accounting Standards Board (GASB) No. 10 requires that state and local governmental entities report an estimated loss from claim-generating events incurred but not reported (IBNR) in its financial statements. At fiscal year-end, Omnitrans has an actuarial study performed to determine the IBNR cost to report in its financial statements as required by GASB.

In previous fiscal years, Omnitrans' operating revenues were more than its operating expenses, which allowed for recording the IBNR cost for workers' compensation and liability claims at levels well above the Expected (50%) confidence level. However, limited growth in operating revenues and increasing operational costs prevent continuation of this practice.

The FY2013 actuarial study provided a range of confidence levels to book on Omnitrans' financial statements. Omnitrans booked an 80% confidence level at present value (See Table below), which amounts to \$13.1M in reserves to cover its IBNR cost. The \$13.1M consists of \$11.3M for workers' compensation, and \$1.8M for liability claims. In comparison, had Omnitrans booked at the Expected confidence level (50%), only \$10.3M in reserves would be

Board Chair Alan Wapner and Members of the Omnitrans Board of Directors April 9, 2014 - Page 2

booked to cover workers' compensation, and liability claims at \$9.0M and \$1.3M, respectively. This is a reduction on \$2.8M between the two reserves.

FY2013

	Workers' Compensation		Liability		Total	
Confidence Level	Estimated Outstanding Losses	Present Value Estimated Outstanding Losses	Estimated Outstanding Losses	Present Value Estimated Outstanding Losses	Estimated Outstanding Losses (2a) + (3a)	Present Value Estimated Outstanding Losses (2b) + (3b)
(1)	(2a)	(2b)	(3a)	(3b)	(4a)	(4b)
(A) Expected (50%)	\$9,696,500	\$8,997,105	\$1,378,448	\$1,344,025	\$11,074,948	\$10,341,130
(B) 80%	12,217,590	11,336,352	1,819,551	1,774,113	14,037,141	13,110,465
(C) 85%	13,187,240	12,236,063	1,998,750	1,948,836	15,185,990	14,184,899
(D) 90%	14,059,925	13,045,802	2,177,948	2,123,560	16,237,873	15,169,362
(E) 95%	16,968,875	15,744,934	2,274,439	2,217,641	19,243,314	17,962,575

In addition, to reduce IBNR cost, several strategies have been implemented to mitigate the rising cost of workers' compensation, for example, changing the third party administrator, and implementing new employee safety and training standards.

Although Omnitrans has funded its IBNR cost for workers' compensation and liability claims at high confidence levels, the actual annual payouts on the outstanding claims have remained relatively constant, averaging \$2,426,447 annually (See Table below). The Expected confidence level reserves of \$10,341,130 for FY2013 are more than four times the amount required to meet the annual workers' compensation and liability claims payouts.

	Workers		
Fiscal Year	Compensation	Liability	Total
FY2009	\$1,874,327	\$666,364	\$2,540,691
FY2010	\$1,267,624	\$834,256	\$2,101,880
FY2011	\$2,092,729	\$511,595	\$2,604,324
FY2012	\$1,662,178	\$644,992	\$2,307,170
FY2013	\$1,855,165	\$723,004	\$2,578,169
_	_	Average	\$2,426,447

FUNDING SOURCE

The cost associated with implementing this Incurred But Not Reported policy is budgeted in the Human Resources and Finance Department Budget as follows:

Board Chair Alan Wapner and Members of the Omnitrans Board of Directors April 9, 2014 - Page 3

Department 1600, 1800
Expenditure Code 506360, 506960

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

A survey was taken from members and associates of California Transit Insurance Pool (CalTIP) on the confidence level their organization record the estimated outstanding losses. The results of the survey are presented in the Attachment A.

CONCLUSION

Over the next six years (FY2015 – FY2020), Omnitrans is projected to have an operating loss of \$12.1 million. The flexibility to lower the confidence level to Expected (50%) will lower operational cost while maintaining adequate reserves to meet IBNR costs.

PSG:DW

Actuarial Study Survey

	Confidence	
Agency	Level	Comment
Yolo County Transportation District	N/A	\$10K deductible paid by Contractor
Central Contra Costa Transit Authority	Discount to 73%	Small liability claims - \$132K. Discount Workers' Compensation claims - \$886K
California Joint Powers Risk Management Association (CJPRMA)	55%	Lists the Outstanding Losses in their financial statements at 55% per GASB 10. CJPRMA is a pool of cities and other smaller JPAs that provides liability and property insurance. (But excludes transit agencies)
City of Santa Rosa, CA	50%	We set our own reserves at the 50% confidence level plus the amount of one outstanding Self Insured Retention for liability
San Luis Obispo Regional Transit Authority	N/A	Do not carry a self-insured retention (SIR)
California Transit Insurance Pool (CalTIP)	50%	We set our own reserves at the 50% confidence level plus the amount of one outstanding Self Insured Retention (SIR) for liability
Golden Empire Transit District	90%	Because it allows us to build a larger cash reserve. I could lower it but not below the minimum.
Santa Cruz Metropolitan Transit District	50%	We book at the "Expected" Level – which is the minimum in accordance with GASB #10, therefore we wouldn't be able to lower it.
Riverside Transit Agency	55%	55% - or the Expected Confidence Level - per GASB 10. But we try to include an additional 20% (up to 75%) for contingency.



WORKERS' COMPENSATION AND LIABILITY RISK MANAGEMENT POLICY ADOPTED BY BOARD OF DIRECTORS

1. POLICY

It is the policy of **OMNITRANS** to identify and evaluate risk and loss exposures to the valued assets (people, reputation and property) in order to efficiently and appropriately control and finance those exposures, maximizing the Agency's overall mission and operational performance.

2. SCOPE

This risk management policy applies only to the estimated outstanding losses for workers compensation and liability claims presented in the actuarial study of the self-insured workers compensation and liability programs at fiscal year-end.

3. OBJECTIVE

Omnitrans is exposed to various risks, which are either insured or self-insured, depending on the specific objectives being performed while fulfilling the Agency's Mission. Our goal is to identify the risks and determine if they may be avoided, reduced, spread, transferred or prevented. Having recognized the need, and taken the responsibility to preserve Omnitrans' resources, the following guidelines assist in managing the self-insured workers compensation and liability programs:

- 1. Achieve and maintain a reduced cost of risk without placing the Agency in a position of risk exposure that could have a significant impact on its financial security and its Mission.
- 2. Evaluate and assess risks of loss associated with workers compensation and liability claims estimated outstanding losses and the need for additional reserves in excess of the Expected confidence level.

3. Modify or eliminate identifiable conditions and practices which may cause additional reserve requirements above the Expected confidence level whenever possible.

4. **DELEGATION OF AUTHORITY**

The CEO/General Manager is hereby authorized to determine the appropriate confidence level Omnitrans shall maintain for workers' compensation and liability claims for its estimated outstanding losses, in accordance with the Governmental Accounting Standards Board (GASB) No. 10.

5. REPORTING REQUIREMENTS

Staff, under the direction of the CEO/General Manager, shall update the Administrative and Finance Committee (Risk Committee) annually on the self-insured workers' compensation and liability program. These reports will include a summary of the results of the actuarial study conducted at fiscal year-end.

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ITEM # E12

DATE: April 9, 2014

TO: Board Chair Alan Wapner and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Jennifer M. Sims, Director of Procurement

SUBJECT: AUTHORIZE AWARD – SOLE SOURCE CONTRACT ITS14-225

KRONOS/IMMIXTECHNOLOGY – MAINTENANCE AGREEMENT

FORM MOTION

Authorize the CEO/General Manager to award a sole source contract to ImmixTechnology, Inc., of McLean, VA, for the provision of maintenance of Kronos Workforce Timekeeper for one base year beginning June 20, 2014 and ending June 19, 2015, in an amount not to exceed \$20,757.71, and the authority to exercise Option Year One in the amount of \$22,775.77, and Option Year Two in the amount of \$23,134.73, extending the contract to no later than June 19, 2017, for a three-year total not-to-exceed amount of \$66,668.21.

BACKGROUND

Kronos Workforce Timekeeper (Kronos) is a time and attendance system used to collect the timekeeping information and administration of medical leaves. These services are being purchased through Kronos' technology partner ImmixTechnology, Inc. Omnitrans must maintain the software and licensing to ensure the accurate and compliant collection of data.

In accordance with FTA Circular 4220.1F, Section VI-17, procurement by noncompetitive proposals may be used when the manufacturer is the sole provider of the items compatible with existing equipment/systems and when the equipment/systems are not interchangeable with similar parts and equipment from other manufacturers.

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

Board Chair Alan Wapner and Members of the Omnitrans Board of Directors April 9, 2014 – Page 2

FUNDING SOURCE

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

Department 1320 Expenditure Code 505170

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

CONCLUSION

Award of this contract will allow consistency in our timekeeping software and ensure required maintenance is continued.

PSG:JMS:JC



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ITEM#	E13
T T T714T 11	

RESOLUTION NO. 272-14

A RESOLUTION AUTHORIZING THE CEO/GENERAL MANAGER TO EXECUTE AND COMPLETE THE FILING OF APPLICATION AND REQUESTS FOR REIMBURSEMENTS FOR THE GOVERNOR'S OFFICE OF HOMELAND SECURITY FISCAL YEAR 2013-2014 CALIFORNIA TRANSIT SECURITY GRANT PROGRAM FUNDING – (CTSGP)

WHEREAS, Omnitrans is a public entity established under the laws of the State of California for the purpose of providing transportation services in the County of San Bernardino who desires to apply for and obtain funding for transit security purposes.

WHEREAS, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 authorizes the issuance of general obligation bonds for specified purposes, including, but not limited to, funding made available for capital projects that provide increased protection against security and safety threats, and for capital expenditures to increase the capacity of transit operators to develop disaster response transportation systems; and

WHEREAS, the California Emergency Management Agency (Cal EMA) administers such funds deposited in the Transit System Safety, Security, and Disaster Response Account under the California Transit Security Grant Program (CTSGP); and

WHEREAS, OMNITRANS is eligible to receive CTSGP funds; and

WHEREAS, OMNITRANS will apply for Fiscal Year 2014 CTSGP funds in an amount up to \$128,566 for Safety and Security Upgrades to ensure the safety and security of OMNITRANS facilities in accordance with the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006; and

WHEREAS, OMNITRANS recognizes that it is responsible for compliance with all Cal EMA CTSGP grant assurances, and state and federal laws, including, but not limited to, laws governing the use of bond funds; and

WHEREAS, Cal EMA requires OMNITRANS to complete and submit a Governing Body Resolution for the purposes of identifying agent(s) authorized to act on behalf of OMNITRANS to execute actions necessary to obtain CTSGP funds from Cal EMA and ensure continued compliance with Cal EMA CTSGP assurances, and state and federal laws.

WHEREAS, Resolution No. 272-14 would authorize filing application with and requesting reimbursements from the California Office of Homeland Security (OHS) and would satisfy grant application requirements for the Fiscal Year 2014 Transit Security Grant Program.

NOW, THEREFORE, BE IT RESOLVED BY THE OMNITRANS BOARD OF DIRECTORS: that **Omnitrans' CEO/General Manager** or his/her designee is authorized to execute and file applications for the federal Department of Homeland Security and sub granted through the State of California, Office of Homeland Security.

CERTIFICATION

The undersigned duly qualified CEO/General Manager acting on behalf of Omnitrans certifies that the foregoing is a true and correct copy of a resolution adopted at a legally convened meeting of the Omnitrans Board of Directors held on this 9th day of April 2014, by the following vote to wit:

AYES:	
NOES:	
ABSENT:	
	P. Scott Graham, CEO/General Manager Secretary, Omnitrans Board of Directors
The foregoing resolution is hereby approved this 9th	day of April 2014.
	Alan D. Wapner Chair, Omnitrans Board of Directors
Approved as to form:	
Carol Greene Counsel for Omnitrans	

Sun Monday, February 24, 2014

THE SUN

TRANSPORTATION POLICY

Transit center, rail line extensions planned in San Bernardino

By Ryan Hagen, The Sun

POSTED: 02/24/14, 8:34 PM PST

SAN BERNARDINO >> A pair of transportation projects break ground Tuesday that supporters say are milestones in a reinvention of how the city and region move.

Beyond that, says Mayor Pat Morris, the one-mile extension of passenger rail and construction of a downtown transit center will move San Bernardino forward.

"It's going to change the conversation," Morris said. "It'll revolutionize the way we move people. You can go home to work, work to home, home to recreation, without ever having to get out your keys. ... And it's going to change the economic future in an almost explosive way."

The transit center — the state's only such center east of Los Angeles, according to Morris — will connect the sbX bus rapid transit route, 13 Omnitrans bus routes and other regional transit providers going into the mountains and Los Angeles.

One ceremony — at 3 p.m. at the corner of Rialto Avenue and E Street — will celebrate the groundbreakings of the transit center planned for that corner and the passenger rail line that will go one mile from the transit center to the Santa Fe Depot, which will connect it to the rest of the Metrolink system.

"That will connect you to Los Angeles — and Amtrak there — and to the mountains," said Jane Dreher, spokeswoman for the regional transportation agency SanBAG, or San Bernardino Associated Governments. "We're trying to offer more public transportation options. We're trying to expand freeways all the time, and there's going to be a limit — how many lanes you can add. This is a major step."

Contractors expect to finish the transit center in about one year and about a year later finish the downtown San Bernardino Passenger Rail Project, also known as the "first mile" because after it's completed a Metrolink extension to the University of Redlands is planned.

Construction will also involve the closure of some roads, including Third Street from the 215 Freeway to the Santa Fe Depot, and will involve demolition of a row of older houses in that area to widen the road, Dreher said.

The combined cost of the two projects is \$128.6 million, Dreher said: \$37 million from federal sources, \$26.9 million from the state and \$64.7 million from local governments including the county and city of San Bernardino.

Most of the city's contribution is in-kind as opposed to direct money, Morris said, and already he saw the investment paying off in developments like a Loma Linda University Medical Center campus planned for nearby.

"You can see the appeal of having our transit center right next to these developments," he said. "This is a major development opportunity downtown. Part of the land is set aside for buildings, and around it open space, which will take advantage of the transportation opportunities."

Agencies collaborating on the project include Metrolink, SanBAG, Omnitrans and the Federal Transit Administration.

The Sun February 25, 2014

TRANSPORTATION

Transit center, rail line extensions planned

By Ryan Hagen ryan.hagen@langnews.com @sbcitynow on Twitter

san bernardino » A pair of transportation projects break ground today that supporters say are milestones in a reinvention of how the city and region move.

Beyond that, says Mayor Pat Morris, the one-mile extension of passenger rail and construction of a downtown transit center will move San Bernardino forward.

"It's going to change the conversation," Morris said. "It'll revolutionize the way we move people. You can go home to work, work to home, home to recreation, without ever having to get out your keys. ... And it's going to change the economic future in an almost explosive way."

The transit center — the state's only such center east of Los Angeles, according to Morris - will connect the jor step." sbX bus rapid transit route, 13 Omnitrans bus routes and finish the transit center in

viders going into the mountains and Los Angeles.

One ceremony — at 3 p.m. at the corner of Rialto Avenue and E Street - will celebrate the groundbreakings of the transit center planned for that corner and the passenger rail line that will go one mile from the transit center to the Santa Fe Depot, which will connect it to the rest of the Metrolink sys-

"That will connect you to Los Angeles — and Amtrak there - and to the mountains," said Jane Dreher, spokeswoman for the regional transportation agency SanBAG, or San Bernardino Associated Governments. "We're trying to offer more public transportation options. We're trying to expand freeways all the time, and there's going to be a limit - how many lanes you can add. This is a ma-

Contractors expect to other regional transit pro- about one year and about a year later finish the down- nardino. town San Bernardino Passenger Rail Project, also known as the "first mile" because after it's completed a Metrolink extension to the University of Redlands is

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Sun Wednesday, February 26, 2014

THE SUN

Transportation Policy

Two major transit projects break ground in San Bernardino

By Ryan Hagen, The Sun

POSTED: 02/25/14, 8:00 PM PST UPDATED: 5 DAYS AGO



Officials participate in two groundbreaking ceremonies for the extended Metrolink service and passenger rail service at the future site of the San Bernardino Transit Center near E Street and Rialto Avenue in San Bernardino Tuesday. Rachel Luna — Staff Photographer



Mayor Pat Morris speaks during two groundbreaking ceremonies for the extended Metrolink service and passenger rail service at the future site of the San Bernardino Transit Center near E Street and Rialto Avenue in San Bernardino Tuesday Rachel Luna — Staff Photographer

SAN BERNARDINO >> The significance of the two transportation projects that broke ground Tuesday was reflected in the dignitaries from regional, state and federal agencies who came to celebrate — and by the absence of the color guard that was meant to be there.

They got caught in traffic. The flag itself arrived on time by taking public transportation.

Freeways are growing increasingly congested and difficult, said Mayor Pat Morris, who slipped in frequent jokes and anecdotes as master of ceremonies. And the field where he stood — a century ago a railroad maintenance and repair yard, Tuesday decorated with buses and vehicles form the various mass transit modes that will intersect at the transit center there once construction is complete — showed the path forward.

"(It's) visual testimony that the economic engine of this city and this region was once the rail industry," Morris said. "... Our presence here is testimony that our future and our economy's future is tied to transportation."

The beginning of construction on two different projects was marked in one ceremony Tuesday; the intermodal transit center and a onemile extension of the Metrolink line from the Santa Fe Depot to that center.

Together, the projects are intended to allow someone to easily transfer among the different services that will meet there — 13 local Omnitrans buses, the sbX Bus Rapid Transit service, Victor Valley Transit Authority buses, Mountain Area Rapid Transit Authority buses and Metrolink trains — and easily travel without needing a car.

That, in turn, is expected to facilitate transit-oriented development.

The \$128 million projects came about through a partnership including the Federal Transit Administration, San Bernardino Associated Governments (SanBAG), Omnitrans, Metrolink and the city of San Bernardino, and representatives of many of those agencies spoke about how they expected the project to help the region and the city.

And in what Morris pointed to as another example of people coming together for progress, all seven City Council members as well as the city attorney attended. Mayor-elect Carey Davis was in Los Angeles for a mediation session as part of the city's bankruptcy process.

Supervisor James Ramos said the project, as well as the coming extension of Metrolink to the University of Redlands, would be a boon for the region.

"This is truly a historic day," he said. "It marks the beginning of a new era."

Other attendees didn't make their way to the dais but brought attention to some of what is being lost as a result of coming construction.

That includes the building where Allgood Shower Door operated for about the last 40 years and that was built in the 1910s, said Bruce Hefftner, co-owner of the company.

"I don't want to be negative — I still think it's a good project," Hefftner said, who wasn't sure what the longterm effect will be but did see a decline in business after moving to Waterman Avenue south of Mill. "We'll survive. It's partly too bad though."

Other Wednesday, February 26, 2014



New Hopes and Opportunities for San Bernardino



The San Bernardino region is home to many high density destinations such as CSU San Bernardino, the Loma Linda University Medical Center area, and several government services in the downtown area. It is well on its way to becoming a more transit-friendly region for both local and out-of-area commuters and travelers.

Government officials broke ground on two key projects that will make this happen: The downtown San

Bernardino Transit Center project, and the Metrolink extension into downtown. The riding public has much to gain. The popular Metrolink San Bernardino Line and numerous existing express buses are proposed to connect at this major hub. From there, out-of-area riders can seamlessly get to the major destinations aboard the soon-to-open E Street sbX line. Likewise, numerous Omnitrans routes that already pass through downtown will also connect, providing better options for local area riders.

The City of San Bernardino has a key opportunity here to become a desirable urban center. If officials get serious and take a leadership role in ridding the city of its miserable crime, the area can become a true transit-friendly destination that people would be proud to call their home. Besides the Loma Linda area down south and the CSUSB campus up north, the region is currently mired street gang crime and limited private sector job growth. We cannot afford to have these robust transit facilities that will be built mired in vandalism and crime only a few years later.

The solution of combating San Bernardino gang crimes is complex but officials should take into consideration any ideas that have already been proven to work. That includes broadcasting firm public messages for parents to properly raise, discipline, and spend more undivided time with their children and allowing the non-profit sector to expand youth center facilities so that troubled youth can positively establish healthy fraternal bonds with peers and caring adult mentors. This can be as simple as allowing private groups to offer additional after-school youth programs and social time at area middle and high school campuses. Evidence shows that both of these solutions will help keep kids out of gangs.

For those already in the gangs, it's a matter of cleaning up the streets, locking up those involved in crimes and rehabilitating youth exposed to the criminal world of whom desire to turn away from it. Flooding troubled areas with additional investigating and patrolling law enforcement—even if it be volunteer reserves—is necessary to deter crime and catch such criminal activity. Our jails and prisons should have mentorship programs available for inmates and incarcerated gang members. Yes, jail and prison budgets are tight and the governments will have limited public resources to tackle this challenge on their own. However, such programs can be provided by working with the non-profit private sector and prison ministry outlets. These options should be available for inmates who really desire to turn away from the criminal culture and reintegrate back into the community once their sentences are served.

The excuses of omission to this grave problem needs to stop and officials need to debate and propose real solutions to make San Bernardino streets safer and to allow youth and children to grow up and become productive selfless workers. We never know if one of these youth has what it takes to find a cure for cancer and AIDS, gets the nation to be fully self-reliant on fuel and energy, or has the answer to efficiently mass-desalinate ocean water. San Bernardino can be a true destination in the years to come.

Posted by A Better Inland Empire at 9:30 AM

Press Enterprise Wednesday, February 26, 2014

THE PRESS-ENTERPRISE

SAN BERNARDINO: Agencies pool money for transit center, Metrolink extension



Cassie MacDuff/STAFF PHOTO - A new low-polluting Metrolink engine with positive train control, and a safer passenger car with stronger frame, rubber bumpers and collapsible tables, are pulled onto tracks in downtown San Bernardino for transit center groundbreaking on Tuesday, Feb. 25, 2014.

BY CASSIE MACDUFF February 26, 2014; 03:10 PM

Transportation officials circled the wagons in downtown San Bernardino on Tuesday, Feb. 25, to kick off a \$227 million project to bring Metrolink, bus service and, eventually, rail to Redlands together at a single station.

The virtually abandoned railroad tracks at E Street and Rialto Avenue carried a four-car Metrolink train to the bare dirt lot where, 100 years ago, a Santa Ferailroad repair shop stood.

Santa Fe once employed nearly half the city's residents, said Mayor Pat Morris, who emceed the groundbreaking for the transit center to open early next year.

One of Omnitrans' new 60-foot-long, segmented buses for the soon-to-launch sbX bus rapid transit line formed the western flank of the circle, along with a standard Omnitrans bus.

Victor Valley and Mountain Area Regional Transit buses comprised the eastern flank of the circle.

One dignitary said it made him feel like he was in the middle of a "Wagon Train" episode — surrounded and well-protected, said Alan Wapner, Omnitrans board chairman.

In the middle of the circled wagons was a tent filled with white folding chairs and a temporary stage for dignitaries whose agencies contributed funds for the first multi-modal transit center east of Los Angeles.

A breeze ruffled the fronds of a palm behind the train during the afternoon ceremony.

In a region dependent on freeways prone to congestion and delays, the transit center will enable passengers to transfer easily between local buses, express buses and Metrolink to reach jobs, entertainment and errands, Morris said.

The event turned into a farewell fete for Morris, who was praised for his work knitting together funding for transit projects including the \$192 million sbX line.

One official after another expressed gratitude and credited him with working hardest to pull together partnerships between federal, state and local agencies to get transit projects built.

Federal Transit Administration Region 9 Administrator Leslie Rogers called Morris "among the absolute best mayors I interact with," adding he made great contributions to the citizens of not just San Bernardino but all of Southern California.

"I'm actually going to be very sorry when next week comes," and Morris turns over the reins to Mayor-elect Carey Davis, Rogers said.

The one-mile Metrolink extension from the historic Santa Fe Depot is a baby step, Rogers said, but "we have every assurance that we will extend rail to Redlands." The nine-mile line has been in the planning for two decades.

Rogers promised to return to the city when the transit center opens in early 2015.

"We have the commitment from all our other partners that these projects will be delivered on time and on budget," he said.

The \$25 million center and \$103 million Metrolink extension are being paid for with \$37 million in federal funds, \$26.9 million in state funds and the rest from local sources including Measure I, the half-cent sales tax, said Bill Jahn, mayor of Big Bear Lake and president of the San Bernardino Associated Governments board.

Morris has been cleaning out his office, finding souvenirs. He gave each speaker a tote bag acquired during his eight years as mayor.

California Transportation Commissioner Joe Tavaglione got a Stanford Law School tote; Supervisor James Ramos, a University of Redlands tote. Both universities are Morris' alma maters.

Jahn got a Route 66 Rendezvous cap. Wapner, an Ontario councilman, was loudly booed for suggesting that Jahn wear it to Ontario for the Route 66 car show, which moved there last year after two decades in San Bernardino.

Some wounds are too fresh to laugh about.

Other Thursday, February 27, 2014

INLAND NEWS TODAY

New project gets San Bernardino connected



Rendering of the new San Bernardino Transit Center, a multi-modal transportation hub that will serve the Inland Empire, High Desert and Morongo Basin.



Rendering of the historic Santa Fe Depot train station in San Bernardino showcasing an elevated walkpath for Metrolink users. [Photos courtesy: SANBAG]



SAN BERNARDINO - (INT) - Another link connecting the city's West Side with downtown is taking shape.

A ceremony Tuesday kicked off work on a downtown transit center and an extension of Metrolink tracks from the historic Santa Fe Depot to the future transit hub at Rialto Avenue and 'E' Street.

Project spokeswoman Jane Dreher says the project follows the recent addition of new ramps along the 215 freeway.

"People using Omnitrans and sbX buses can board westbound Metrolink trains at the transit center."

The 1-mile Metrolink extension will take about 2-years to complete and the transit center in 1-year.

Local funds are covering about half of the \$128 million cost.

Story Date: February 27, 2014

Passenger Transport March 10, 2014

Graham, Omnitrans

THE OMNITRANS Board of Directors, San Bernardino, CA, has appointed Scott Graham permanent chief executive officer/general manager. He has held the position on an interim basis since June 2013, when Milo Victoria stepped down.

Graham joined Omnitrans



Scott Graham

in 2006 as director of operations after 12 years with the Orange County Transportation Authority, Orange, CA. Before entering the public transportation field, he spent 26 years in the U.S. Marine Corps, serving in progressively responsible positions in Southeast Asia, the Middle East, and the U.S.

Passenger Transport March 10, 2014

Metrolink Breaks Ground For Two Extensions

LOCAL GOVERNMENTAL agencies in the Inland Empire region of California recently broke ground for two extensions of Metrolink commuter rail service.

San Bernardino

In downtown San Bernardino, CA, Metrolink and partners broke ground for two projects: a one-mile extension of commuter rail service beginning at the historic Santa Fe Depot, and an intermodal facility where the line will ter-

minate. Other partners in the Downtown San Bernardino Passenger Rail Project include FTA, San Bernardino Associated Governments (SANBAG), Omnitrans, and the city of San Bernardino.

The Santa Fe Depot, currently the end of the line for Metrolink, will undergo renovations including a new rail boarding area, with a pedestrian bridge providing safe access over the tracks. The extension will operate with double tracks

The multimodal San Bernardino Transit Center will connect Metrolink trains with Omnitrans local bus routes and sbX Bus Rapid Transit service scheduled to begin in April. Other agencies in the region will also provide bus service to the facility, equipped with 22 bus bays and a 7,500-square-foot building.

"The San Bernardino Transit Center

METROLINK CONTINUED ON PAGE 4



An artist's rendering of the San Bernardino Transit Center, a multimodal facility that will provide connections for Metrolink commuter rail and several bus systems.

The Sun March 10, 2014

PUBLIC TRANSIT

nericans are riding in record numbers

By Justin Pritchard The Associated Press

Americans are boarding public buses, any time since the suburbs began booming.

Nearly 10.7 billion trips in 2013, to be precise — the highest total since 1956, according to ridership data reported by transit systems nationally and released today by the American Public Transportation Association.

Transit ridership has now fully recovered from a dip caused by the Great Recession. With services restored following economy-

driven cutbacks, ridership numbers appear set to continue what had been a steady in-

"People are making a fundamental shift to trains and subways in greater numbers than having options" aside from a car in how they get around, said Michael Melaniphy, president and CEO of the public transportation association. "This is a long-term trend. This isn't just a blip."

Ridership on Los Angeles County Metropolitan Transportation Authority light-rail trains increased 6 percent over 2012, as the public took advantage of an expanded network of lines. Overall, L.A.'s Metro system

gained 9 million trips to reach 478 million in 2013, the transportation association said. Among the other transit systems in California with record ridership was the Caltrain commuter rail service that connects San Francisco with Silicon Valley.

Houston and Phoenix, two cities which have been more notable for their sprawl than public transportation offerings, had large ridership gains. So did Seattle, Miami, Denver and San Diego. The New York area's behemoth transit network saw the greatest gain, accounting for one in three trips nationally.

TRANSIT » PAGE 8

FROM PAGE 1

Transit advocates argue that the public increasingly values the ability to get around without a car. They offer as evidence the nation's urban shift and the movement to concentrate new development around tran-

"People want to work and live along transit lines," Melaniphy said. "Businesses, universities and housing are all moving along those corridors."



March 12, 2014

CONTACT: Wendy Williams
Director of Marketing

Office: 909-379-7151 Cell: 909-520-4642

wendy.williams@omnitrans.org

Omnitrans Proposes Service and Fare Changes Public Hearings March 24—31

(San Bernardino, CA)— Omnitrans is proposing route and service changes along with a fare increase, the first since 2009, to take effect September 2, 2014. The proposals are part of a 6-year plan which includes additional changes between 2015—2020. To gather public comment, a series of meetings are scheduled between March 24 and 31. (See meeting details below.)

The cost of a one-way bus trip would increase from \$1.50 to \$1.75 while the 1-day pass rate would rise from \$4 to \$5. A 31-day pass would go from \$47 to \$55. Discounted fares apply to persons with disabilities, seniors age 62 and up, and youth 18 and under. Fare increases also are proposed for Access service which transports persons with disabilities who qualify under Americans with Disability Act (ADA) guidelines. (See fare table for details.)

September service change proposals affect bus routes in the east San Bernardino valley. "With the launch of the sbX bus rapid transit line this April, we have the opportunity to streamline several routes and enhance connectivity," said Omnitrans spokesperson Wendy Williams. "To keep up with demand, we also want to increase weekend frequency on our Route 215 freeway express service, connecting downtown San Bernardino and Riverside, to every 30 minutes."

BUS/Autobús			
BUSIAUIODU	Control Control (According	Actuales	Propuesta
Cash Dinero	Full Fare Tarifa Completa	\$1.50	\$1.75
	Senior/Disability Ancianos/Personas Incap	\$0.60 paciatadas	\$0.75
31-Day Pass Pase de	Full Fare Tarifa Completa	\$47.00	\$55.00
31 Dias	Senior/Disability	\$23.50	\$27.50
	Ancianos/Personas Incap Youth/Joven	\$35.00	\$41.00
7-Day Pass Pase de	Full Fare Tarifa Completa	\$15.00	\$18.00
7 Dias	Senior/Disability Ancianos/Personas Incap	\$7.00 paciatadas	\$8.00
	Youth/Joven	\$11.00	\$14.00
1-Day Pass Pase de	Full Fare Tarifa Completa	\$4.00	\$5.00
1 Dia	Senior/Disability Ancianos/Personas Incap	\$1.85 paciatadas	\$2.25
1-Day 10-Pack	Full Fare Tarifa Completa	\$36.00	\$45.00
1 Dia	Senior/Disability Ancianos/Personas Incap	\$15.50 paciatadas	\$20.00
Access (1)			
Cash/Ticket	1-3 zone/zona	\$2.75	\$3.25
Dinero/Boleto	Additional zones/zonas Beyond boundary fee	\$1.00 \$5.00	\$1.00 \$5.00
OmniLink (2		\$5.00	\$5.00
Cash		62.00	\$3.50
Casn Dinero	Full Fare Tarifa Completa	\$3.00	\$5.50
	Senior/Disability	\$1.50	\$1.75
	Ancianos/Personas Incap Youth/Joven	\$2.00	\$2.50

2. Proposed OmniLink fares should the service remain.

Elimination of OmniLink general public dial-a-ride

service operating in Chino Hills and Yucaipa is also up for consideration. Trips taken on OmniLink have steadily declined since the implementation of OmniGo community shuttle routes in those cities in 2010. In fiscal year 2009-10, OmniLink provided over 45,000 trips compared to only about 18,500 last year.

(more

Founded in 1976, Omnitrans is an award-winning public transit agency providing over 16 million passenger trips per year in the San Bernardino Valley. Omnitrans is governed by a 20-member board representing 15 cities and San Bernardino County.



"Most of our OmniLink customers are within walking distance of an OmniGo route," explained Williams, "and those with disabilities who are ADA-eligible can switch to using Access service."

The "OmniConnects" six-year plan proposes service enhancements in the west San Bernardino valley beginning in September 2015 and two additional fare increases in 2016 and 2018. West valley long-term proposals include a new rapid transit line to run from Pomona to Fontana along the Holt, Milliken and Foothill corridors as well as options for freeway express routes.

Details are available online at: Omnitrans Proposals

Public Hearing Schedule:

SAN BERNARDINO: Monday, March 24

- 10 am 2 pm, Feldheym Library, 555 W. Sixth St.
- 3:30 6 pm. San Bernardino Transfer Ctr., 4th & F St.

CHINO: Tuesday, March 25

- 9 am Noon, City Hall, 13220 Central Ave.
- 2 6 pm, Chino Transit Center

REDLANDS: Wednesday, March 26

- 1 3 pm, Redlands Mall Transfer Center
- 5 8 pm, City Hall, 35 Cajon St.

FONTANA: Thursday, March 27

■ 7 – 10 am, Metrolink Station, 16777 Orange Way

RANCHO CUCAMONGA: Thurs., March 27

■ 1 – 3 pm, Chaffey College Transit Ctr., 5885 Haven Ave.

ONTARIO: Thursday, March 27

5 – 8 pm, Senior Center, 225 East B Street

MONTCLAIR: Monday, March 31

9 am – Noon, Montclair Transit Ctr., 5091 Richton Rd.

YUCAIPA: Monday, March 31

2:30 – 6:30 pm, Yucaipa Transit Ctr., 34278 Yucaipa Blvd.

Comments may also be submitted by phone at 909-379-7250, email: tembi.morales@omnitrans.org or mail to Omnitrans, 1700 West Fifth Street, San Bernardino, CA 92411. The comment period closes April 7, 2014.

www.omnitrans.org

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THE SAN BERNARDINO SUN

March 20, 2014

Omnitrans

FROM PAGE 1

changes but were lukewarm.

"It's really hard for a lot of people," said John Howard, 60, of San Bernardino, as he waited for a bus to take him to Feldheym Central Library. "I'll be able to pay it and maybe it means I might be able to go more places. I don't know about other people, though."

And others hope it won't affect them, like Tony Jones, 34, of San Bernardino.

"I'm saving up for a car, so I don't think I'll be taking the bus anymore by then,"

Jones said.

As for the idea that more-frequent service or more destinations might encourage him to ride the bus even if he had a car available, he laughed.

"That's why I'm getting a car, so I don't have to ride the bus," he said.

The proposed changes are part of Omnitrans' six-year plan for 2015 to 2020, which includes other changes later.

Officials are also considering eliminating Omni-Link general public ridealong options in Chino Hills and Yucaipa.

Since the implementation of OmniGo community shuttle routes in those cities in 2010, use of that service has decreased from more than 45,000 in fiscal year 2009-10 to 18,500 last year, Williams said in a news release.

"Most of our OmniLink customers are within walking distance of an OmniGo route, and those with disabilities who are ADA-eligible can switch to using Ac-

PUBLIC HEARING SCHEDULE

SAN BERNARDINO:

Monday

10 a.m.–2 p.m., Feldheym Central Library, 555 W. Sixth St.

3:30-6 p.m., San Bernardino Transfer Center, Fourth and F streets

CHINO: Tuesday

9 a.m.—Noon, City Hall,
13220 Central Ave.
2—6 p.m., Chino Transit

2-6 p.m., Chino Transit Center

REDLANDS: Wednesday 1–3 p.m., Redlands Mall Transfer Center

5-8 p.m., City Hall, 35 Cajon St.

FONTANA: March 27 7–10 a.m., Metrolink Station, 16777 Orange Way

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March 27

1–3 p.m., Chaffey College Transit Center., 5885 Haven Ave.

ONTARIO: March 27 5–8 p.m., Senior Center, 225 East B St.

MONTCLAIR: March 31 9 a.m.—Noon, Montclair Transit Center., 5091 Richton Road

YUCAIPA: March 31 2:30 – 6:30 p.m., Yucaipa Transit Center., 34278 Yucaipa Blvd.

cess service," she said.

Omnitrans has more information about its plans at its website www.omnitrans.org.

Comments may also be submitted by phone at 909-379-7250, email tembi.morales@omnitrans.org, or mail to Omnitrans, 1700 West Fifth Street, San Bernardino, CA 92411. The comment period closes April 7.

THE SAN BERNARDINO SUN

March 20, 2014

OMNITRANS

Meetings planned to seek input on proposed changes

By Ryan Hagen

ryan.hagen@langnews.com @sbcitynow on Twitter

Omnitrans wants to know how people would feel about paying more for bus tickets and getting changed routes, so they've scheduled 11 public hearings beginning next week.

The proposed rate increases, the first since 2009, would increase the price of a single ticket from \$1.50 to \$1.75, a one-day pass from \$4 to \$5 and a 31-day pass from \$47 to \$55. Discounts are available for some passengers.

The changes could take effect in September, along with changes to bus routes.

"With the launch of the sbX bus rapid transit line this April, we have the opportunity to streamline several routes and enhance connectivity," said Omnitrans spokeswoman Wendy Williams. "To keep up with demand, we also want to increase weekend frequency on our Route 215 Freeway express service, connecting downtown San Bernardino and Riverside, to every 30 minutes."

Several passengers in downtown San Bernardino said they hadn't heard of the proposed
OMNITRANS » PAGE 4

PROPOSED RATE CHANGES

One trip

Current: \$1.50

Proposed: \$1.75

Senior/disability: \$0.60

Proposed: \$0.75

31-day pass

Current: \$47 Proposed: \$55

Senior/disability: \$23.50

Proposed: \$27.50

Youth: \$35

Proposed: \$41

7-day pass

Current: \$15

Proposed: \$18 Senior/disability: \$7

Proposed: \$8

Youth: \$11

Proposed: \$14

1-day pass

Current: \$4

ourient.

Proposed: \$5 Senior/disability: \$1.85 Proposed: \$2.25

1day 10-pack

Current: \$36

Proposed: \$45

Senior/disability: \$15.50

THURSDAY, MARCH 20, 2014

Proposed: \$20

Access (minor route change proposed)

1-3 zone: \$2.75

Proposed: \$3.25 Additional zones: \$1

Proposed: \$1

Beyond boundary fee: \$5

Proposed: \$5

OmniLink (If not elimi-

nated)
Current: \$3

Proposed: \$3.50

Senior/disability: \$1.50

Proposed: \$1.75

Youth: \$2

Proposed: \$2.50

The Sun March 25, 2014



Ericka Flores of the Center for Community Action and Environmental Justice addresses community members who, like her, want the 30,000-gallon tanks of liquefied natural gas moved farther from homes and Ramona Alessandro Elementary School.

The Sun March 25, 2014

Omnitrans to study possible risks of natural gas storage

By Ryan Hagen ryan.hagen@langnews.com @sbcitynow on Twitter

SANBERNARDINO » Community fears regarding liquefied natural gas and compressed natural gas storage at the Omnitrans facility on the Westside spurred an agreement Monday to hire a consultant to study the po-

tential danger. Officials told the operations and safety committee of the Omnitrans board that the two 30,000-gallon liquefied natural gas tanks and smaller amounts of compressed natural gas have been stored in compliance with applicable codes since the fuel station's completion in 2002, but residents and advocates from the Center for Community Action and Environmental Action say there's a risk of fire or explosion.

"This is the typical government reply: Say you'll study it, and delay it," said Penny Newman, executive director of the environmental action group. "We've been working on this for a decade. They (Omnitrans) are more amenable than they used to be, but what they need to do is move the tanks."

The advocates say the tanks are dangerously close to homes and Ramona Alessandro Elementary School, pointing to a recent gas explosion in New York that killed eight people as evidence of the danger.

But three daily inspections by



Advocates of moving an 30,000-gallon tanks of liquefied natural gas farther from homes and Ramona Alessandro Elementary School listen as Omnitrans staff say they have taken all precautions to make the site safe.

Omnitrans staff on top of weekly, monthly and quarterly inspections by Clean Energy Corporations - and redundant safety precautions such as an automatic system shutdown if a leak is detected - work to prevent that in San Bernardino, Omnitrans staff responded in a presentation by Human Resources Director Marjorie Ewing.

"We take safety very seriously, not only for our employees but our community as well," Ewing said, adding that many homes cook with natural gas and that many agencies are switching over to it because it is better for air quality than other fuels.

Clean Energy maintains 100 natural gas tanks including the one at the Omnitrans facility, and none have

had an accident, said Denis Ding, vice president of technology and advance-

"We meet or exceed all safety requirements," Ding said.

Still, residents told the committee,

they feel unsafe. "My name is Susana Negrete, I'm

your neighbor, and I'm not safe here," one speaker said. "We worry whenever we hear about a new explosion. Right away we think, 'Hopefully it's not Omnitrans, hopefully we're not next."

Committee members asked a series of questions seeking to confirm that, as staff said, danger was minimal and that any liquefied natural gas released would evaporate and dissipate quickly in the atmosphere.

According to the California Energy Commission, natural gas — mostly methane, with low concentrations of other compounds - is not explosive as a liquid, and only will explode if in an enclosed space and within the flammable range of 5 percent to 15 percent gas mixed with the air.

The committee agreed Monday to request proposals from outside experts to report on the situation and to include a member of the environmental group, a representative of the San Bernardino City Unified School District and a fire representative.

The request for proposal must be approved by the full Omnitrans board, after which the consultant and cost will be decided.

THE SAN BERNARDINO SUN

March 31, 2014

PUBLIC TRANSIT

Bus drivers threaten to strike

Omnitrans official contends union's vote is a negotiation tactic; service would still continue

By Greg Cappis and Ryan Hagen Staff Writers

Linda Pough sat on the blue bench of a Route 10 Omnitrans bus stop on Sunday afternoon, reading a Bible as she waited on Base Line for a bus to take her to church.

Today, she'll ride a bus in the opposite direction from her Rialto home, east to San Bernardino Valley College, where she attends

Pough said she rides the region's main public bus system nearly

Annual net ridership for Omini-

ing to statistics listed on the transit agency's website.

Saturday night the Omnitrans bus drivers' union authorized a strike, putting the reliability of Pough's main mode of transportation in question.

However, before the bus drivers quit serving residents from Chino Hills to Yucaipa, the strike must be approved by the Amalgamated Transit Union's international of-

trans is roughly 16 million, accord- fice in Washington, and by union officials in Riverside, according to Jeff Caldwell, president of the local ATU.

Caldwell said he thinks the ATU leaders will approve the strike, since local drivers overwhelmingly voted yes, 234-17.

But an Omnitrans spokeswoman doesn't think a strike and subsequent service disruption is imminent, suggesting the strike authori-

STRIKE » PAGE 4

"This is rather typical of the tactics of the ATU at this point in union negotiations."

- Wendy Williams, director of marketing at Omnitrans

FROM PAGE 1

zation is a negotiating ploy.

"This is rather typical of the tactics of the ATU at this point in union negotiations," Wendy Williams, director of marketing at Omnitrans, said Sunday by

Even if the company's 400 or so bus drivers go on strike, Williams said service likely will continue, but on a smaller scale.

Field supervisors and other employees in the agency are licensed to drive buses when necessary, like during a strike or after a natural disaster, she said.

Williams expressed hope that her employer and union reps can return to the bargaining table soon for productive negotiations, as did Caldwell, the union presi-

"I don't want to leave the public without service," Caldwell said by phone Sat-urday night. "My hope is that negotiations will continue on Monday and we'll get a better offer."

Caldwell said one of the major contract disputes revolves around health care.

The sticking point for most members, he said, is an arbitrator's decision to offer benefits to employees on medical leave for only three months, rather than indefinitely - or for either one or two years, depending on circumstances.

After that, according to a copy of the proposed contract on the union's website. "COBRA will be offered under the terms of the Trust agreement."

COBRA - health coverage offered by the Consolidated Omnibus Budget Reconciliation Act is insufficient for many, Caldwell said.

"How can I ask a guy and his family to depend on that?" he asked.

Williams said Caldwell left out an important figure from his argument.

She said that under the current offer Omnitrans would cover the first three months of medical leave and fund another four months of COBRA payments.

"And then, after that, the employee can stay on the same health care plan, but they have to take over CO-BRA" payments, she said.

All other Omnitrans employees, including herself, are subject to a similar plan, Williams said.

Omnitrans drivers have been working without a contract since March 31,

While the union representing drivers has voted to authorize a strike in the past, no walkout has happened in the 22 years Williams has been with the

Drivers authorized a strike in 2007, but a deal was signed before routes were disrupted, according to newspaper archives.

If the strike passes through the upper levels of the ATU and drivers quit showing up to work, Pough has faith she'll be able to find another ride, although other forms of public transportation in the area are limited.

"I think the Lord would bless me with someone who can drive me around," she said.

The Sun April 1, 2014

OMNITRANS



Passengers board an Omnitrans bus at the Fourth Street Transfer Station in San Bernardino on Monday. The Amalgamated Transit Union has voted to authorize a strike but is seeking approval from labor councils before going ahead with it

Strike: Union approves action, but seeks permission from affiliated groups first Readiness: Omnitrans preparing for strike if an agreement cannot be reached

By Ryan Hagen ryan.hagen@langnews.com @sbcitynow on Twitter

On the first business day since Omnitrans bus drivers authorized a strike, the union and transit agency had simi-lar messages: We don't want a strike, we're not backing down, and now we wait.

Jeff Caldwell, president of the Amalgamated Transit Union, said midday Monday that he hadn't spoken to Omnitrans ne-gotiators since ATU voted 234-

17 on Saturday to authorize a strike but remained hopeful. "I'm waiting for (the Omni-

trans negotiator) to call me," Caldwell said. "I imagine they are in conference themselves are in conference themselves, so I don't know what's next. If I don't hear from her by the end of the day, I'll call her, but the ball is in their court."

While Caldwell seeks permission to strike from the ATU interesticated and the Cantral Lagrangian.

ternational and the Central Labor Council for a strike, Omnitrans spokeswoman Wendy STRIKE » PAGE 6



JOHN VALENZUELA - STAFF PHOTOGRAPHER

Omnitrans driver Todd Hart welcomes passengers onto the bus Monday afternoon at the Pomona Regional Transit Center in Pomona.

"We certainly can't replace 400 operators, but we do have contingency plans that we always have prepared in the event of any kind of emergency — fires, floods, a work action. We might have to back off frequencies, but we would continue service. It's not like paperwork you can let stack up on a desk, we have to get service."

Omnitrans spokeswoman Wendy Williams



JOHN VALENZUELA - STAFF PHOTOGRAPHER Omnitrans driver Andrew Urena welcomes passengers aboard the bus Monday afternoon at the Pomona Regional Transit

Strike

FROM PAGE 1

is fact-finding by a panel from outside the organiza-

"They've been through negotiations, impasse, mediation and then they took the vote on the last, best and fi-

said, emphasizing that she doesn't expect a strike and will have time to warn rid-ers if one is coming. "We certainly hope it doesn't come williams said the next step to that, but there would be sufficient time to notify customers."

Williams said Sunday that field supervisors and other employees could step in if Omnitrans' roughly 400 bus drivers went on strike, and nal (offer), so that's next," she she reiterated that Monday.

place 400 operators, but we do have contingency plans that we always have prepared in the event of any kind of an emergency fires, floods, a work action," she said. "We might have to back off frequencies, but we would continue service. It's not like paperwork you can let stack up on a desk, we have to get service."

The strike authorization

"We certainly can't re-ace 400 operators, but we have contingency plans that we always have pre-nardino at the end of April, which became a high-profile effort in city politics and the minds of residents.

But Williams said she didn't expect any interference with that plan.

"We're pretty confident that we'll be launching sbX as planned on the 28th," she



1700 W. Fifth St. San Bernardino, CA 92411 909-379-7100 www.omnitrans.org

ITEM#	Tr1
ITEM#	rı

DATE: April 9, 2014

TO: Board Chair Alan Wapner and Members of the Omnitrans Board of Directors

FROM: P. Scott Graham, CEO/General Manager

SUBJECT: CEO/GENERAL MANAGER'S REPORT

The Operations and Safety Committee met Monday, March 24, 2014, and recommended Omnitrans hire a consult to assess Omnitrans LNG tanks at the San Bernardino facility, which will include the safety of the stations and whether the tanks could explode in the event of a catastrophic earthquake. A member from the Center for Community Action and Environmental Justice, the Ramona-Alessandro Elementary School and the San Bernardino Fire Department will be invited to work with the consultant once the contract is approved for award by the Board of Directors.

sbX Coach Operators completed their training on Saturday, March 29, 2014. Route familiarization, operation of the Intelligent Transportation System and support equipment on the buses will be tested. New wheelchair securement systems have been received and installed.

MONTHLY STATISTICS

Ridership for February 2014 was 1,278,292 compared to 1,335,711 in February 2013. This is a 4.3 percent decrease from February of last year.

Year-to-date ridership through February 2014 was 10,542,917, which is a decrease of 2.7% percent from last year-to-date. Fixed route ridership decreased by 291,158 passengers year-to-date. Ridership on Access increased by 2,963 passengers, and OmniLink decreased by 708 passengers. OmniGo ridership was 103,641 year-to-date, which is up 16.7 percent.

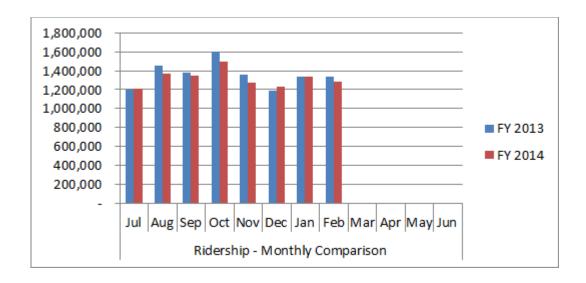
Year-to-date fixed route revenue through February 2014 was \$8,860,977 compared to \$8,775,247 last year, which is an increase of .98 percent.

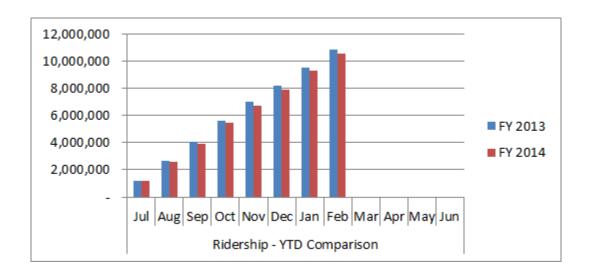
On-time performance for February 2014 was 86.05 percent.

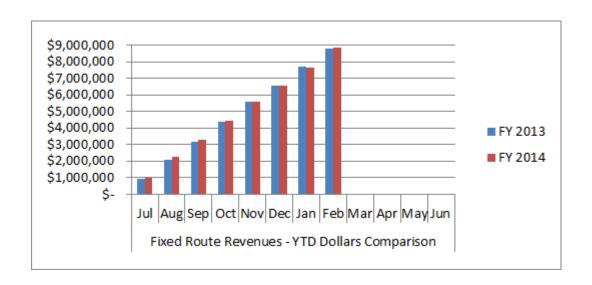
Outreach events in February included: Chino Hills Community Center Opening, Loma Linda Chamber Breakfast and the American Lunch Association Health Growth event.

PSG:VD

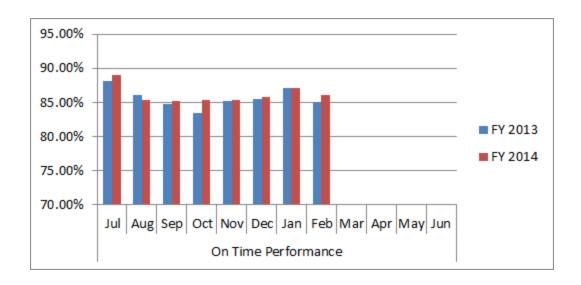
CEO/General Manager Report – February 2014







CEO/General Manager Report – February 2014





1700 W. Fifth St. San Bernardino, CA 92411 909-379-7100 www.omnitrans.org

ITEM# F3

DATE: April 9, 2014

TO: Board Chair Alan Wapner and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Jennifer M. Sims, Director of Procurement

SUBJECT: AUTHORIZE AWARD (BENCH) - CONTRACT MNT14-24 (A-C),

TOWING SERVICES

FORM MOTION

Authorize the CEO/General Manager to award Contract MNT14-24A to Statewide Towing & Recovery, Inc., of Riverside, CA; Contract MNT13-24B to Bill and Wag's Towing, Inc., of Ontario, CA; and Contract MNT13-24C to Dietz Towing, Inc., of Ontario, CA, for the provision of towing services for an initial two year period beginning April 9, 2014 and ending no later than May 31, 2016, and the authority to exercise three (3) single option years to extend the contracts to no later than May 31, 2019 in an aggregate amount of \$66,000 for the initial base period and \$33,000 for each of the two option years, totaling \$99,000 for a total aggregate amount of \$165,000, plus a 10% contingency of contingency of \$16,500, for a total not-to-exceed amount of \$181,500, should all option years be exercised.

BACKGROUND

On December 4, 2013, Omnitrans' Board of Directors authorized the release of Invitation for Bids IFB-MNT14-24 for the provision of towing services for the 40' and 60' bus fleet and non-revenue vehicles.

Staff released the IFB, notices were published in two local newspapers of general circulation and posted on Omnitrans' online bidding system.

Five bids were received electronically by the deadline of February 20, 2014. Four bids were found to be responsive. Award is being made to the lowest three responsive and responsible bidders. The Independent Cost Estimate was \$165,000 for a five (5) year period.

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

Board Chair Alan Wapner and Members of the Omnitrans Board of Directors April 9, $2014 - Page\ 2$

FUNDING SOURCE

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

Department 1200 Expenditure Code 503110

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

CONCLUSION

Award of these contracts will provide continued towing services to maintain Omnitrans' fleet.

PSG:JMS:AA



CONTRACT AGREEMENT

between

CONTRACTOR) CONTRACT DOCUMENTS
Statewide Towing & Recovery, Inc. PO Box 3793) CONTRACT NO. MNT14-24A
190 N. Main Street Riverside, CA 92519	TOWING SERVICES)
(hereinafter "CONTRACTOR") Telephone: 951-875-9303 Fax: 951-682-9336 Email: susan@statewidetowing.com)))))
And)) Contract Amount: 20,000.00)))
Omnitrans 1700 West Fifth Street San Bernardino, CA 92411 (hereinafter "OMNITRANS"))))))) Omnitrans Project Manager:) Name: Jack Dooley) Title: Director) Telephone: (909) 379-7183) Fax: (909) 885-2441) Email: jack.dooley@omnitrans.org) Contract Administrator:) Name: Alesia Atkinson) Title: Contract Administrator
	Telephone: (909) 379-7314) Fax: (909) 379-7107) Email: <u>alesia.atkinson@omnitrans.org</u>)



TABLE OF CONTENTS

1.	SCOPE OF WORK	4
2.	PERIOD OF PERFORMANCE	4
3.	COMPENSATION	5
4.	INVOICING AND PAYMENT	5
5.	AUDIT AND INSPECTION OF RECORDS	6
6.	NOTIFICATION	6
7.	OMNITRANS' AND CONTRACTOR'S REPRESENTATIVES	7
8.	DISPUTE RESOLUTION	8
9.	TERMINATION FOR CONVENIENCE	9
10.	TERMINATION FOR BREACH OF AGREEMENT	9
11.	ASSIGNMENT	. 10
12.	SUBCONTRACTING	. 10
13.	INDEPENDENT CONTRACTOR	11
14.	INSURANCE	11
15.	INDEMNITY	. 12
16.	REVISIONS IN SCOPE OF WORK	. 12
17.	RIGHTS IN TECHNICAL DATA	. 12
18.	OWNERSHIP OF REPORTS AND DOCUMENTS	. 12
19.	OWNERSHIP RIGHTS	. 13
20.	WORK FOR HIRE	. 13

21.	SUBMITTAL OF CLAIMS BY CONTRACTOR	. 14
22.	EQUAL OPPORTUNITY	. 14
24.	NOTIFICATION OF EMPLOYMENT OF OMNITRANS BOARD MEMBERS/ALTERNATES AND EMPLOYEES	. 15
25.	DISQUALIFYING POLITICAL CONTRIBUTIONS	. 15
26.	COMPLIANCE WITH LAW	. 15
27.	COMPLIANCE WITH LOBBYING POLICIES	. 15
28.	PUBLIC RECORDS ACT	. 16
29.	WAIVER/INVALIDITY	. 16
30.	FORCE MAJEURE	. 17
31.	CONFIDENTIALITY	. 17
32.	CONTRACTOR'S INTERACTION WITH THE MEDIA AND THE PUBLIC	. 17
33.	GOVERNING LAW	. 17
34.	MODIFICATIONS TO AGREEMENT	. 18
34.	DISPUTE RESOLUTION	. 18
35.	LICENSING, PERMITS AND INSPECTION COSTS	. 18
36.	PRECEDENCE	. 19
37.	ENTIRE AGREEMENT	. 20

Attachment A – Scope of Work

Attachment B – Regulatory Requirements

Attachment C - Rates

This Ag	reemer	nt is made an	d entered into as of this $_$	day of		, 20	014
by and	betwee	n Omnitrans	(hereinafter referred to as	"OMNITRANS"	') and <u>S</u>	<u>Statev</u>	vide
Towing	and	Recovery,	lnc.	(hereinafter	referred	to	as
"CONT	RACTO	PR").					

RECITALS

WHEREAS, OMNITRANS is a joint powers authority organized under Sections 6500 et seq. of the California Government Code and Section 130255 of the California Public Utilities 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 May 30, 2016, unless terminated as specified in Section 8 and 9 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 May 31, May 30, 2019, which period encompasses the Initial Term.

3. 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 Twenty Thousand Dollars and 00/100 Dollars (\$20,000.00), 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.

4. 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

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

- Contract number
- Invoice number
- Description of Towing Service Provided
- Date
- Additional 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.

5. 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.

6. 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: Alesia Atkinson, Contract Administrator Statewide Towing and Recovery, Inc. PO Box 3793
Riverside, CA 92519
Attn: Tamila Kirk, President

7. 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: Jack Dooley, Director

- 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>
Tamila Kirk, President	
Susan liniski, Office Manager	

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.

8. 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.

9. TERMINATION FOR CONVENIENCE

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

10. 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 26, 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 8, 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.

11. 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.

12. 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	

13. 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.

14. INSURANCE

Throughout the duration of this Agreement, CONTRACTOR shall maintain the following minimum insurance coverage, which shall be full-coverage insurance not subject to self-insurance provisions. CONTRACTOR shall not of its own initiative cause such insurance to be canceled or materially changed during the term of this Agreement.

- A. Commercial General Liability including Products/Completed Operations: \$1,000,000 per occurrence for bodily and property damage liability and \$2,000,000 aggregate; Endorsement naming Omnitrans as Additional Insured.
- B. **Automobile Liability:** \$1,000,000 combined single limit bodily and property damage liability per accident; *Endorsement naming Omnitrans as Additional Insured.*
- C. **Workers' Compensation:** statutory limits or, a State-Approved program in an amount and form that meets all applicable requirements of the Labor Code of the State of California; *waiver of subrogation that includes Omnitrans*.
- D. **Employers Liability:** \$1,000,000 per occurrence.
- E. **Professional Liability:** \$1,000,000 per occurrence
- F. **On Hook Liability:** Insurance endorsements required for On-Hook Liability required for tow truck services:

Gross Vehicle Weight	Minimum Coverage Per Accident
Less than 10,000 lbs	\$ 50,000
10,000-40,000 lbs.	\$ 100,000
More than 40,000 lbs.	\$1,000,000

Additional Insured:

Omnitrans, its officers, officials, employees, agents, and volunteers.

15. 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.

16. 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.

17. 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.

18. 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.

19. OWNERSHIP RIGHTS

- In the event OMNITRANS rightfully obtains copies of Proprietary Data Α. 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 exclusive property of OMNITRANS (collectively. and "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 No use of OMNITRANS Intellectual Property shall be OMNITRANS. 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.

20. 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.

21. 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.

22. 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.

23. 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 reassigned to perform Work in any other capacity under this Agreement without OMNITRANS' prior written approval.

24. 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.

25. 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).

26. COMPLIANCE WITH LAW

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

27. 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.

28. 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.

29. 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.

30. 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.

31. 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.

32. 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.

33. 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.

34. 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.

34. DISPUTE RESOLUTION

- A. Any disputes between Contractor and Omnitrans relating to the implementation or administration of the Contract shall be resolved in accordance with this section.
 - 1) The parties shall first attempt to resolve the dispute informally in meetings or communications between Contractor and Omnitrans.
 - 2) If the dispute remains unresolved fifteen (15) days after it first arises, Contractor 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 Contractor.
 - 3) 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.
 - 4) Pending final resolution of a dispute under this section, Contractor shall proceed diligently with performance in accordance with the Contract and Omnitrans' CEO/General Manager's recommended decision.

35. LICENSING, PERMITS AND INSPECTION COSTS

A. The FIRM warrants that it has all necessary licenses and permits required by the laws of the United States, State of California, and the County of San Bernardino, the Local Jurisdictions, and all other appropriate governmental agencies, and agrees to maintain these licenses and permits in effect for the duration of the Agreement. Further, FIRM warrants that its employees, agents, and contractors and subcontractors shall conduct themselves in compliance with such laws and licensure requirements including, without limitation, compliance with laws applicable to nondiscrimination, sexual harassment and ethical behavior throughout the duration of this Agreement. FIRM further warrants that it shall not

retain or employ an unlicensed subcontractor to perform work on this Project. FIRM shall notify OMNITRANS immediately and in writing of its employees', agents', contractors' or subcontractors' inability to obtain or maintain, irrespective of the pendency of any appeal, any such licenses, permits, approvals, certificates, waivers, exemptions. Such inability shall be cause for termination of this Agreement.

B. Contractor shall procure all permits and licenses; pay all charges, assessments and fees, as may be required by the ordinances and regulations of the public agencies having jurisdiction over the areas in which the work is located, and shall comply with all the terms and conditions thereof and with all lawful orders and regulations of each such public agency relating to construction operations under the jurisdiction of such agency.

36. PRECEDENCE

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement, (2) Attachment A, Scope of Work, (3) Attachment B, Regulatory Requirements, (4) Attachment C, Rates, (5) provisions of MNT14-24R and (4) CONTRACTOR's proposal dated ____February 11, 2014______.

37. ENTIRE AGREEMENT

OMNITRANS

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.

STATEWIDE TOWING AND

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.

	RECOVERY, INC.
P. SCOTT GRAHAM CEO/General Manager	TAMILA KIRK President
DATE	Federal Tax I.D. No. <u>01-0692937</u>
DP	1 0 0 0 1 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0
CM	

ATTACHMENT A SCOPE OF WORK

ATTACHMENT A-1 NEW FLYER VEHICLE TOWING INSTRUCTIONS

ATTACHMENT B
REGULATORY REQUIREMENTS

THE ABOVE-REFERENCED DOCUMENTS APPLY TO

ITEM #F3 TOWING SERVICES (BENCH)

ATTACHMENT A – SCOPE OF WORK

I. INTRODUCTION

- A. Contractor shall provide Omnitrans with towing services on an as-needed basis.
- B. Omnitrans currently has towing services contracts in place through May 31, 2014. To avoid duplication of coverage, the initial period of performance for the Contract contract(s) will cover only the 60' articulated buses used for the sbX Corridor. Commencing June 1, 2014, at the expiration of the current contracts, this agreement will be in effect.
- C. The award of items identified on this solicitation shall be split between suppliers for the overall benefit to Omnitrans.
- D. Omnitrans' fixed-route transit operations are conducted from two (2) separate facilities in the San Bernardino Valley including the following locations:
 - East Valley Facility (San Bernardino)
 1700 West Fifth Street, San Bernardino, CA 92411
 - West Valley Facility (Montclair)
 4748 Arrow Highway, Montclair, CA 91763

II. GENERAL

- A. Contractor shall arrive within 1 hour at the designated site after contact by Omnitrans.
- B. Contractor shall have all his/her drivers possess a "Class A Commercial License" with Medical Card Requirements.
- C. Contractor shall provide towing service for cars, truck and vans ("hook" method may be used for these vehicles).
- D. ALL buses shall be towed using Landoll or a flat-bed with the ability to tow full sized 102" wide by 30' to 40' buses. Omnitrans buses are alternative fuel buses (Compressed Natural Gas and Liquefied Natural Gas) and the fuel tanks are on the roof of the vehicles which add additional height to the overall tow height that requires the Contractor to have Landoll that shall remain below overpasses and other height restricted obstacles.

Vehicles to be towed:

	Estimated Quantity of Vehicles in Service	
NUMBER IN		
SERVICE	DESCRIPTION	
201	40 foot New Flyer Low Floor Buses	
14	60 foot New Flyer Low Floor Articulated Buses	
72	Support Vehicles (Consisting of cars, light trucks and vans)	
VEHICLE QUANTITIES ARE SUBJECT TO CHANGE		

- E. Prior to loading the buses, an observation of the bus must be performed by the tow truck operator and the Omnitrans road call mechanic. Any defects such as scratches, dents, damage to body or exterior components installed on buss shall be noted on a form provided by Omnitrans (O.D.R.) and marked accordingly on the form identifying the location of the damage noted. The form must be signed by both parties. When buses are picked up by the towing contractor from a third party contractor, the tow truck operator shall perform the walk around and complete the O.D.R. and return the form to the location the bus is dropped off.
- F. Towing of 40-foot buses requires a 3-axle wrecker with 25-ton capacity or larger.
- G. Towing of 60-foot Articulated Buses requires special manufactures' procedures (see attachment A1 for towing information).
- H. All vehicles towed must be towed by lifting the vehicle and towing without a person steering.
- I. Towing service is required on a 24-hour, seven days a week, 365 days a year basis "Inclusive of all holidays". Failure to comply with this requirement will be cause for immediate termination of the contractual agreement.
- J. Contractor shall legibly and accurately fill-out a trip ticket for each vehicle delivered listing at minimum:
 - 1. Vehicle number
 - 2. Date
 - 3. Time of arrival at vehicle location (confirmed by Omnitrans employee at vehicle location)
 - 4. Time of delivery to destination
 - 5. Length of transport in miles
- K. Contractor shall ensure the operator delivering the towed vehicle will have the delivery slip signed by a shop supervisor or a designee.

MNT14-24R A THROUGH C TOWING SERVICES

- L. Contractor shall conduct a careful examination of Omnitrans' facilities and shall thoroughly familiarize themselves with access points, conditions, configurations, and arrangements of each site.
- M. Mileage rates are from Omnitrans' San Bernardino or Montclair locations.
- O. Accident/Recovery work: Only as requested, on the scene e.g. Debris clean up, fluid spill clean up. "Charges to be included in the Service Call"

III.SAFETY STANDARDS

- A. Maximum speed is 5 M.P.H. on Omnitrans' properties
- B. Yield right-of -way to coaches backing out of the shop and parking stalls.
- C. Sound horn three times and check for clear passage before backing vehicles.
- D. Follow designated yard directional traffic flow. Do not drive across bus stalls.
- E. Always be courteous and professional; never demand the right-of-way to the extent of causing an accident.
- F. Stop at designated "stop" markings in the yard.
- G. Pedestrian traffic in or out of the vehicle access gates is prohibited.
- H. Contractors vehicles shall be parked in designated parking areas only.
- I. Contractors shall use their own applicable personal protective equipment (PPE) while performing work on behalf of the Authority.
- J. All tools equipment, materials, and waste in the Contractors work area shall be kept in an orderly fashion and shall not present a safety hazard.
- K. All field technicians and Contractor's sheall wear appropriate reflective safety vests, at all times while on Omnitrans' properties.
- L. Contractors' are required to check in and check out with the on-duty "Maintenance Supervisor"
- M. OMNITRANS employees are not permitted to ride in the contractor's vehicle at any time. No Exceptions
- N. OMNITRANS maintenance employees will assist tow truck operators with necessary requirements for the Omnitrans owned vehicles.

DRAFT

VEHICLE TOWING

15. VEHICLE TOWING



Failure to comply with the safety precautions in this section could result in personal injury or vehicle damage. ALWAYS follow the recommended procedures.

IE NOTE:

The operator of the towing vehicle is ultimately responsible for safely securing and towing the vehicle. Ensure that the operator of the towing vehicle is aware of the safety requirements and towing procedures contained in this section.

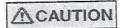
15.1. Towing Safety

- Follow all State (provincial in Canada) and local traffic.
- A vehicle safety restraint system must be used that is independent of the primary lifting and towing attachments.
- All loose or protruding parts of a damaged vehicle should be secured prior to towing.
- Do not go under a vehicle which is being lifted by the towing equipment, unless the vehicle is adequately supported by safety stands or appropriate blocking.

- No towing operation should be altempted for any reason which jeopardizes the safety of the operator, wrecker, bystanders or other motorists.
- O Do not exceed the recommended maximum speed of 35 mph (55 km/h) white towing.
- Reduce speed over uneven roads, railway tracks or other obstacles.
- □ Do not exceed the maximum front and minimum rear clearance specifications when the vehicle is raised. Refer to 15.2.2.4. "Maximum Lifting Height" on page 49 and Refer to 15.2.2.5. "Minimum Vehicle Ground Clearance" on page 49 in this section for dimensions and measuring methods.
- The vehicle being towed must have its steering secured with the wheels positioned straight ahead.
- If the vehicle being towed is not equipped with an electrical plug for operating the vehicle tail lights, a light bar must be placed at the rear bumper of the towed vehicle.
- Vehicles with an articulated joint cannot exceed a maximum vertical joint angle of 10°. If this angle is exceeded, damage to the articulating joint may occur.



15.2. Description



Care must be taken to ensure that the vehicle will not suffer structural or drive train damage as a result of towing. The driveshaft or both rear axle shafts must be removed when towing, regardless of distance or speed traveled. Damage to the transmission/drive unit may occur if the vehicle is towed without first removing the driveshaft or rear axles.

The New Flyer vehicle can be towed from the front using either the flat or raised method. Refer to 15.2.1. "Flat Towing" on page 44 in this section for flat towing procedures. Refer to 15.2.2. "Raised Towing" on page 46 in this section for raised towing procedures. New Flyer recommends the flat towing method to minimize the likelihood of damage to the vehicle. Extra care must be taken when using the raised towing method to ensure adequate ground clearance at the rear of the vehicle. Raised towing of an articulated vehicle also requires extra care to ensure that the artic joint angle does not exceed design limitations. Rear towing is not recommend due to insufficient ground clearance at the front of the vehicle and the problem of locking the front wheels in a straight position.

INOTE:

Consult your local Transit Authority for any specific towing procedures and use them carefully in conjunction with the recommended towing procedures contained within this section.

15.2.1. Flat Towing

15.2.1.1.Preparation

- Prepare the vehicle for towing by removing either the driveshaft or both rear axle shafts. Refer to 15.3. "Driveshaft Removal" on page 50 and Refer to 15.4. "Rear Axie Shaft Removal" on page 51 in this section for procedure.
- Obtain an approved towing adapter kit if one is not already provided. The towing adapter used for flat towing consists of two L-shaped brackets, clevis pins and cotter pins. Refer to your New Flyer Parts Manual for towing adapter ordering information.

IG NOTE:

The towing adapters mount into receivers in the front frame of the vehicle and provide the proper offset and clearance to allow the attachment of towing equipment.





15.2.1.2. Towing Adapter Installation

- Install each tow adapter into a receiver and locate with a clevis pin. See "Fig. GI-24: Towing Adapter" on page 45.
- Secure each clevis pin with a cotter pin.
- 3. Attach the towing vehicle equipment to the tow eye of each towing adapter. The method used will vary depending on the type of towing equipment available.
- 4. Secure the towing vehicle to the tow adapters. The method used will vary depending on the type of towing equipment available.
- 5. Attach two safety restraint chains from the towing vehicle to a fixed location on the towed vehicle. See Fig. GI-25: Safety Chain" on page 46.

VEHICLE TOWING

6. Connect the towing vehicle air line and electrical harness to the respective tow connectors on the towed vehicle.

ISTNOTE:

An auxiliary air supply must be provided to the vehicle being towed to release the spring brakes and maintain suspension height. The auxiliary air supply should be a minimum of 100 psi.

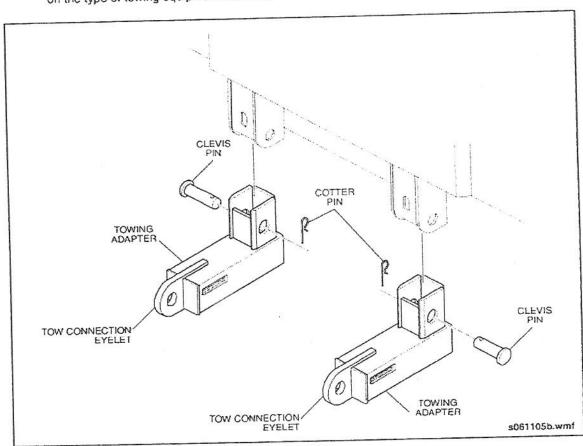


Fig. GI-24: Towing Adapter

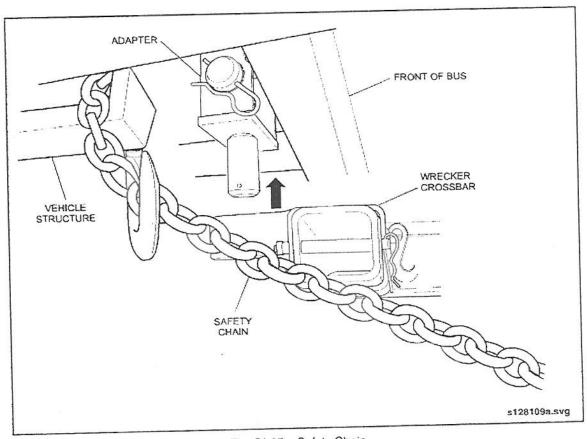


Fig. GI-25: Safety Chain

15.2.2. Raised Towing

15.2.2.1.Preparation

- Prepare the vehicle for towing by removing either the driveshaft or both rear axle shafts. Refer to 15.3. "Driveshaft Removal" on page 50 and Refer to 15.4. "Rear Axle Shaft Removal" on page 51 in this section for procedure.
- Obtain an approved towing adapter kit if one is not already provided. The towing adapter kit used for raised towing is a peg and socket configuration that consists of

two U-shaped lift adapters that attach to the towed vehicle and two lift receivers that slide onto the towing vehicle crossbar. Refer to your New Flyer Parts Manual for towing adapter ordering information.

IENOTE:

The towing adapters mount into receivers in the front frame of the vehicle and provide the proper offset and clearance to allow the attachment of towing equipment. The towing adapters are designed to work with Century 9055 Wrecker towing equipment.



15.2.2.2.Lift Adapter/Receiver Installation

- Install the lift adapters onto the towed vehicle as follows:
 - Slide lift adapter into vehicle receiver and locate with a clevis pin.
- b. Secure each clevis pin with a cotter pin.
- Install the lift receivers onto the towing vehicle crossbar and slide into position so that they align with the towed vehicle lift adapters. See "Fig. GI-26: Lift Receiver installation" on page 47.

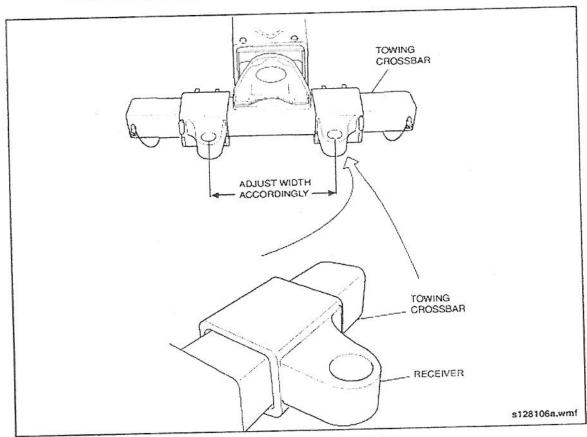


Fig. GI-26: Lift Receiver Installation



15.2.2.3. Raising & Securing the Vehicle

- Position the wrecker's lifting boom with the lift receivers in place under the pegs of the lift adapters. See "Fig. GI-27: Securing the Lift Receivers to the Lift Adapters" on page 48.
- Slowly raise the boom until the socket on the lift receivers engage the pegs on the lift adapters. Make any necessary adjustments to the lift receiver positions to ensure proper engagement.
- Continue to raise the lifting boom until the lift adapters are fully engaged into the receivers.
- 4. Insert the lock pin through the lift adapters.
- 5. Raise the front wheels to the height recommended for the specific vehicle being towed and check vehicle ground clearance. Refer to 15.2.2.4. "Maximum Lifting Height" on page 49 and Refer to 15.2.2.5. "Minimum Vehicle Ground Clearance" on page 49 in this section for recommended limits.
- Connect the towing vehicle air line and electrical harness to the respective tow connectors on the towed vehicle.

INOTE:

An auxiliary air supply must be provided to the vehicle being towed to release the spring brakes and maintain suspension height. The auxiliary air supply should be a minimum of 100 psi.

- Attach two safety restraint chains from the towing vehicle to a fixed location on the towed vehicle.
- Check to ensure that all clevis and cotter pins are properly inserted, towing equipment is fully engaged and safety chains are clear of the vehicle body before final raising and towing the vehicle.
- Secure the steering system as follows:
 - Rotate the steering wheel to position the wheels in the straight ahead position.
 - b. Secure the steering system in this position by looping the driver's seatbelt around the lower portion of the steering wheel and clipping it into the seat belt buckle. See "Fig. GI-28: Securing the Steering System" on page 49.

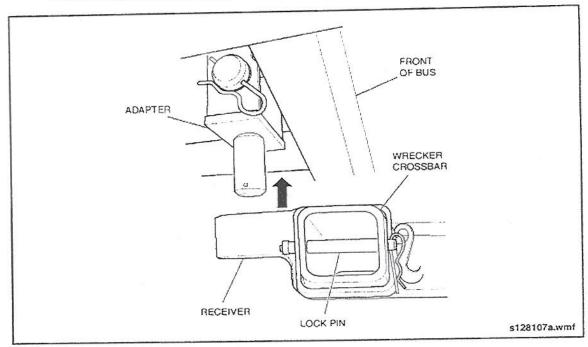


Fig. GI-27: Securing the Lift Receivers to the Lift Adapters

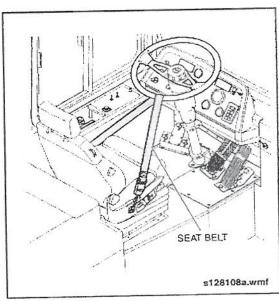


Fig. GI-28: Securing the Steering System

15.2.2.4.Maximum Lifting Height

Maximum raised height, as measured from the bottom of the front tire to the ground must not exceed 7.0 inches (17.8 cm).

15.2.2.5.Minimum Vehicle Ground Clearance

Rear bellows clearance for an articulated vehicle must not be less than 7.0 inches (17.78 cm) as measured from the bottom of the articulating joint bellows to the ground. See "Fig. GI-29: Bellows Clearance" on page 49.

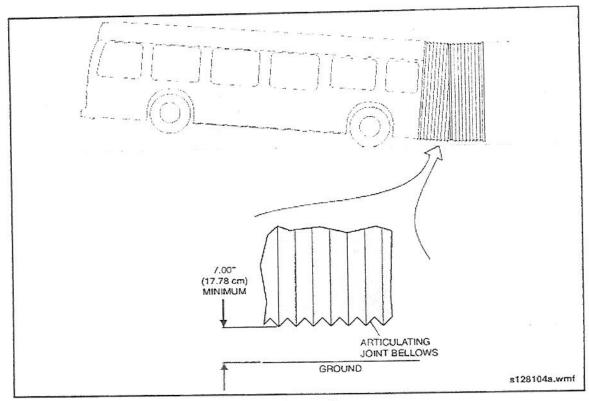


Fig. GI-29: Bellows Clearance



15.3. Driveshaft Removal

15.3.1. Safety Precautions

Ensure the vehicle is appropriately lifted and supported, and know the limitations of the lifting and blocking equipment. Always ensure that jarring and shaking created by component removal does not cause the vehicle to become unstable.



DO NOT attempt to lift or jack the vehicle on an incline, rough or uneven surface.

DO NOT use inadequate lifting or blocking methods. They can result in the vehicle falling off the lifting or blocking equipment, causing severe injury or death to service personnel.

DO NOT allow individuals to board the vehicle while supported solely by the lifting or blocking equipment.

DO NOT run engine or engage transmission while vehicle is resting on lifting or blocking equipment.

15.3.2. Lifting & Supporting Vehicle

- Ensure vehicle is positioned on a stable, level surface.
- Ensure front wheels are facing forward and chocked in position.
- Raise vehicle to facilitate removal of driveshaft and place safety stands or appropriate blocks at designated locations to support vehicle at this height. Refer to 14. "RAISING THE VEHICLE" on page 36 in this section for jack stand locations.



Ensure each safety stand or block is precisely the same height and sitting completely level.

 Lower vehicle slowly and carefully until it comes to rest on the safety stands or blocking.

15.3.2.1.Removal Procedure

INOTE:

Tie up heavy driveshafts with a nylon support strap.

- 1. Remove driveshaft guard.
- Disconnect driveshaft from transmission and differential yokes. Refer to Section 2 of this manual for more detailed information on driveshaft removal.

IS NOTE:

To prevent bearing caps from sliding off universal joint, tape or wire them in place.

- Remove driveshaft from under vehicle.
- Raise vehicle to facilitate removal of safety stands or blocking.
- 5. Lower vehicle slowly and carefully.
- Store driveshaft in an area on the vehicle that will prevent damage to the driveshaft and surrounding area of the vehicle in which it is stored.
- 7. Vehicle is now ready for towing.



DRAFT

VEHICLE TOWING

15.4. Rear Axle Shaft Removal



The axle shafts or the driveshaft must be removed before towing the vehicle.

- Remove the ten M6 bolts that retain the axle shaft to the hub and carefully slide out the axle shaft.
- Seal the axle housing opening using a commercially available cover plate.
- Protect the axle shaft and temporarily store inside the vehicle while being towed.
- Repeat procedure for opposite axle shall.
- 5. Vehicle is now ready for towing.

15.5. Spring Brake Release

Refer to "Manual Spring Brake Release" in Section 2 of this manual if the spring brakes need to be released before the vehicle can be towed.

15.6. Vehicle Removal from Ditch

15.6.1. Chain Pulling Procedure



DO NOT use a chain connected directly to the front or rear bumpers to pull the vehicle.

15.6.1.1.Pulling from the Front

- Connect a chain hook onto one side of each tow adapter pin hole, in the front structural tow connectors, located behind the front bumper.
- Protect the front bumper during pulling with a 4" x 4" or equivalent wood block placed between the chains and the bottom of the front bumper.
- With the assistance of a driver to steer the vehicle, release the parking brake and pull the vehicle from the ditch.

15.6.1.2. Pulling from the Back

- Connect a chain hook onto each tow pin located in each main rail behind the rear bumper.
- Protect the rear bumper during pulling with a 4" x 4" or equivalent wood block placed between the chains and the bottom of the rear bumper.
- With the assistance of a driver to steer the vehicle, release the parking brake and pull the vehicle from the ditch.

Attachment B REGULATORY REQUIREMENT Table of Contents

Contents

ADMINISTRATIVE CODE	2
DISCRIMINATION	2
WHISTLEBLOWER REQUIREMENTS	3
PUBLIC RECORDS ACT	3
ACCESS TO RECORDS	4
FEDERAL FUNDING, INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS, AND FEDERAL CHANGES	4
ENERGY CONSERVATION REQUIREMENTS	5
CIVIL RIGHTS REQUIREMENTS	5
NO GOVERNMENT OBLIGATION TO THIRD PARTIES	6
PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS	7
SUSPENSION AND DEBARMENT	8
RECYCLED PRODUCTS	8
CLEAN WATER AND CLEAN AIR REQUIREMENTS	9
COMPLIANCE WITH FEDERAL LOBBYING POLICY	9
BUY AMERICA	10
CARGO PREFERENCE	10
FLY AMERICA	11
CONTRACT WORK HOURS AND SAFETY STANDARDS ACT	11
DISADVANTAGED BUSINESS ENTERPRISE (DBE) 49 CFR Part 26	13
ADA ACCESS	14
ALCOHOL AND DRUG-FREE WORKPLACE PROGRAM	15
TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS	17
BONDING REQUIREMENTS	18
DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS	18
PRIVACY ACT - 5 U.S.C. 552	25
TERMINATION 49 U.S.C. Part 18 FTA Circular 4220.1F	26
SEISMIC SAFETY REQUIREMENTS 42 U.S.C. 7701 et seq. 49 CFR Part 41	28
BREACHES AND DISPUTE RESOLUTION 49 CFR Part 18 FTA Circular 4220.1F	28
VETERANS PREFERENCE	29

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

RR – Page 2

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 – Page 3

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 permit any of the foregoing parties to reproduce without any cost by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- E. 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

RR – Page 4

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

RR – Page 5 Updated: Sept 18, 2013 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

- Race, Color, Creed, National Origin, Sex In accordance with Title VII of the (a) 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 *

RR – Page 6

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 – Page 7 Updated: Sept 18, 2013

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 – Page 8 Updated: Sept 18, 2013

RR-13

CLEAN WATER AND CLEAN AIR REQUIREMENTS*

A. Applicability

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

B. CLEAN WATER REQUIREMENTS

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

C. CLEAN AIR

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

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

RR-14 COMPLIANCE WITH FEDERAL LOBBYING POLICY *

A. Applicability

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

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

RR – Page 9 Updated: Sept 18, 2013 non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures shall be forwarded from tier to tier up to Omnitrans.

RR-15 BUY AMERICA *

A. Applicability

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

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

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

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

RR-16 CARGO PREFERENCE*

A. Applicability

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

B. USE OF UNITED STATES FLAG VESSELS

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

RR – Page 10

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)

RR – Page 11 Updated: Sept 18, 2013

- 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

RR – Page 12

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

RR-19 DISADVANTAGED BUSINESS ENTERPRISE (DBE) 49 CFR Part 26

Disadvantaged Business Enterprises

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

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

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

RR – Page 13 Updated: Sept 18, 2013

- 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

RR – Page 14

- 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

RR – Page 15

This Article applies to federally funded contracts for transit operations.

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

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

C. Certificate of Compliance

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

D. **Drug and Alcohol Testing Program**

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

E. Alcohol and Drug Free Workplace Program

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

RR – Page 16 Updated: Sept 18, 2013

RR-22

TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS *

A. Applicability

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

B. General Transit Employee Protective Requirements

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

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

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

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

If FTA has determined that this Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, Contractor shall comply with the terms and conditions of the Special Warranty for the Nonurbanized Area

RR – Page 17

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

RR – Page 18

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

RR – Page 19 Updated: Sept 18, 2013

- (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.

RR – Page 20

- (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 with 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

RR – Page 21 Updated: Sept 18, 2013 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

RR - Page 22

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

RR – Page 23

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) <u>Trainees</u> 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) <u>Equal employment opportunity</u> 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

RR – Page 24

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.

RR-25

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.

RR – Page 25

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.

RR- 26 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

RR – Page 26

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.

- Waiver of Remedies for any Breach In the event that Omnitrans elects to waive c. 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 compete 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.

RR – Page 27

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.

RR - 27

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.

RR-28

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 Construction Manager.

RR – Page 28

Updated: Sept 18, 2013

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 be 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 of 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

<u>Veterans Employment</u>. 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

RR – Page 29

Statewide

ATTACHMENT C - RATES

					Statewide	
					Towing &	
			Unit of		Recovery,	
	Section	Description	Measure	Quantity	Inc.	
	Towing Charges 60' Buses Base Year 1 and 2: April 2014-May 31, 2016	Less than 12 mile radius from San Bernardino	EA	1	\$284.00	*Primary Services
	Towing Charges 60' Buses Base Year 1 and 2: April 2014-May 31, 2016	12 to 25 mile radius from San Bernardino	EA	1	\$399.00	*Primary Services
3	Towing Charges 60' Buses Base Year 1 and 2: April 2014-May 31, 2016	Less than 12 mile radius from Montclair	EA	1	\$296.00	*Primary Services
4	Towing Charges 60' Buses Base Year 1 and 2: April 2014-May 31, 2016	12 to 25 mile radius from Montclair	EA	1	\$399.00	*Primary Services
5	Towing Charges 60' Buses Base Year 1 and 2: April 2014-May 31, 2016	26 miles or more from pickup to delivery point	HR	1	\$94.00	*Primary Services
6	Towing Charges 60' Buses Base Year 1 and 2: April 2014-May 31, 2016	Recovery Services	HR	1	\$200.00	*Primary Services
7	Towing Charges 40' Buses - Base Year 1 and 2: June 1, 2014-May 31, 2016	Less than 12 mile radius from San Bernardino	EA	1	\$284.00	** Secondary Services
8	Towing Charges 40' Buses - Base Year 1 and 2: June 1, 2014-May 31, 2016	12 to 25 mile radius from San Bernardino	EA	1	\$399.00	** Secondary Services
9	Towing Charges 40' Buses - Base Year 1 and 2: June 1, 2014-May 31, 2016	Less than 12 mile radius from Montclair	EA	1	\$286.00	** Secondary Services
10	Towing Charges 40' Buses - Base Year 1 and 2: June 1, 2014-May 31, 2016	12 to 25 mile radius from Montclair	EA	1	\$399.00	** Secondary Services
11	Towing Charges 40' Buses - Base Year 1 and 2: June 1, 2014-May 31, 2016	26 miles or more from pickup to delivery point	HR	1	\$94.00	** Secondary Services
12	Towing Charges 40' Buses - Base Year 1 and 2: June 1, 2014-May 31, 2016	Recovery Services	HR	1	\$150.00	** Secondary Services
13	Towing Charges Cars, Light Trucks and Vans Base Year 1 and 2: June 1, 2014-May 31, 2016	Less than 12 mile radius from San Bernardino	EA	1	\$141.00	** Secondary Services
14	Towing Charges Cars, Light Trucks and Vans Base Year 1 and 2: June 1, 2014-May 31, 2016	12 to 25 mile radius from San Bernardino	EA	1	\$286.00	** Secondary Services
15	Towing Charges Cars, Light Trucks and Vans Base Year 1 and 2: June 1, 2014-May 31, 2016	Less than 12 mile radius from Montclair	EA	1	\$141.00	** Secondary Services
16		12 to 25 mile radius from Montclair	EA	1	\$286.00	** Secondary Services
17	Towing Charges Cars, Light Trucks and Vans Base Year 1 and 2: June 1, 2014-May 31, 2016	26 miles or more from pickup to delivery point	HR	1	\$94.00	** Secondary Services
18	Towing Charges Cars, Light Trucks and Vans Base Year 1 and 2: June 1, 2014-May 31, 2016	Recovery Services	HR	1	\$200.00	** Secondary Services
19	Option Year 1 June 1, 2016-May 31, 2017: 60' Buses	Less than 12 mile radius from San Bernardino	EA	1	\$284.00	*Primary Services
20	Option Year 1 June 1, 2016-May 31, 2017: 60' Buses	12 to 25 mile radius from San Bernardino	EA	1	\$399.00	*Primary Services
21	Option Year 1 June 1, 2016-May 31, 2017: 60' Buses	Less than 12 mile radius from Montclair	EA	1	\$296.00	*Primary Services
	Option Year 1 June 1, 2016-May 31, 2017: 60' Buses	12 to 25 mile radius from Montclair	EA	1	\$399.00	*Primary Services
	Option Year 1 June 1, 2016-May 31, 2017: 60' Buses	26 miles or more from pickup to delivery point	HR	1	\$94.00	*Primary Services
	Option Year 1 June 1, 2016-May 31, 2017: 60' Buses	Recovery Services	HR	1	\$200.00	*Primary Services
25	Option Year 2 June 1, 2017-May 31, 2018: 60' Buses	Less than 12 mile radius from San Bernardino	EA	1	\$355.00	** Secondary Services
		12 to 25 mile radius from San Bernardino	EA	1	\$499.00	** Secondary Services
27		Less than 12 mile radius from Montclair	EA	1	\$370.00	** Secondary Services
		12 to 25 mile radius from Montclair	EA	1	\$499.00	** Secondary Services
29		26 miles or more from pickup to delivery point	HR	1	\$118.00	** Secondary Services
		Recovery Services	HR	1	\$250.00	** Secondary Services
31	Option Year 3 June 1, 2018-May 31, 2019: 60' Buses	Less than 12 mile radius from San Bernardino	EA	1	\$355.00	*Primary Services
	Option Year 3 June 1, 2018-May 31, 2019: 60' Buses	12 to 25 mile radius from San Bernardino	EA	1	\$499.00	*Primary Services
	Option Year 3 June 1, 2018-May 31, 2019: 60' Buses	Less than 12 mile radius from Montclair	EA	1	\$370.00	*Primary Services
	Option Year 3 June 1, 2018-May 31, 2019: 60' Buses	12 to 25 mile radius from Montclair	EA	1	\$499.00	*Primary Services
		26 miles or more from pickup to delivery point	HR	1	\$118.00	*Primary Services
	Option Year 3 June 1, 2018-May 31, 2019: 60' Buses	Recovery Services	HR	1	\$250.00	*Primary Services
37	Option Year 1 June 1, 2016-May 31, 2017: 40' Buses	Less than 12 mile radius from San Bernardino	EA	1	\$284.00	** Secondary Services
38		12 to 25 mile radius from San Bernardino	EA	1	\$399.00	** Secondary Services
		Less than 12 mile radius from Montclair	EA	1	\$286.00	** Secondary Services
40		12 to 25 mile radius from Montclair	EA	1	\$399.00	** Secondary Services
	Option Year 1 June 1, 2016-May 31, 2017: 40 Buses	26 miles or more from pickup to delivery point	HR	1	\$94.00	** Secondary Services
41	Option 1-cal 1-valie 1, 2010 imay 31, 2017. To Duses	20 miles of more from pickup to delivery point	TIIN	1	7 .00	Secondary Services

42	Option Year 1 June 1, 2016-May 31, 2017: 40' Buses
43	Option Year 2 June 1, 2017-May 31, 2018: 40' Buses
44	Option Year 2 June 1, 2017-May 31, 2018: 40' Buses
45	Option Year 2 June 1, 2017-May 31, 2018: 40' Buses
46	Option Year 2 June 1, 2017-May 31, 2018: 40' Buses
47	Option Year 2 June 1, 2017-May 31, 2018: 40' Buses
48	Option Year 2 June 1, 2017-May 31, 2018: 40' Buses
49	Option Year 3 June 1, 2018-May 31, 2019: 40' Buses
50	Option Year 3 June 1, 2018-May 31, 2019: 40' Buses
51	Option Year 3 June 1, 2018-May 31, 2019: 40' Buses
52	Option Year 3 June 1, 2018-May 31, 2019: 40' Buses
53	Option Year 3 June 1, 2018-May 31, 2019: 40' Buses
54	Option Year 3 June 1, 2018-May 31, 2019: 40' Buses
55	Option Year 1 June 1, 2016-May 31, 2017: Cars, Light Trucks and Vans
56	Option Year 1 June 1, 2016-May 31, 2017: Cars, Light Trucks and Vans
57	Option Year 1 June 1, 2016-May 31, 2017: Cars, Light Trucks and Vans
58	Option Year 1 June 1, 2016-May 31, 2017: Cars, Light Trucks and Vans
59	Option Year 1 June 1, 2016-May 31, 2017: Cars, Light Trucks and Vans
60	Option Year 1 June 1, 2016-May 31, 2017: Cars, Light Trucks and Vans
61	Option Year 2 June 1, 2017-May 31, 2018: Cars, Light Trucks and Vans
62	Option Year 2 June 1, 2017-May 31, 2018: Cars, Light Trucks and Vans
63	Option Year 2 June 1, 2017 May 31, 2018: Cars, Light Trucks and Vans
03	Option real 2 June 1, 2017-Iviay 31, 2010. Cars, Light Hucks allu Valis

64 Option Year 2 June 1, 2017-May 31, 2018: Cars, Light Trucks and Vans
65 Option Year 2 June 1, 2017-May 31, 2018: Cars, Light Trucks and Vans
66 Option Year 2 June 1, 2017-May 31, 2018: Cars, Light Trucks and Vans
67 Option Year 3 June 1, 2018-May 31, 2019: Cars, Light Trucks and Vans
68 Option Year 3 June 1, 2018-May 31, 2019: Cars, Light Trucks and Vans
69 Option Year 3 June 1, 2018-May 31, 2019: Cars, Light Trucks and Vans
70 Option Year 3 June 1, 2018-May 31, 2019: Cars, Light Trucks and Vans
71 Option Year 3 June 1, 2018-May 31, 2019: Cars, Light Trucks and Vans
72 Option Year 3 June 1, 2018-May 31, 2019: Cars, Light Trucks and Vans
73 Option Year 3 June 1, 2018-May 31, 2019: Cars, Light Trucks and Vans

411	ACHIVIENT C - RATES				
	Recovery Services	HR	1	\$150.00	** Secondary Services
	Less than 12 mile radius from San Bernardino	EA	1	\$355.00	** Secondary Services
	12 to 25 mile radius from San Bernardino	EA	1	\$499.00	** Secondary Services
	Less than 12 mile radius from Montclair	EA	1	\$370.00	** Secondary Services
	12 to 25 mile radius from Montclair	EA	1	\$499.00	** Secondary Services
	26 miles or more from pickup to delivery point	HR	1	\$118.00	** Secondary Services
	Recovery Services	HR	1	\$250.00	** Secondary Services
	Less than 12 mile radius from San Bernardino	EA	1	\$355.00	** Secondary Services
	12 -25 mile radius from San Bernardino	EA	1	\$499.00	** Secondary Services
	Less than 12 mile radius from Montclair	EA	1	\$370.00	** Secondary Services
	12 to 25 mile radius from Montclair	EA	1	\$499.00	** Secondary Services
	26 miles or more from pickup to delivery point	HR	1	\$118.00	** Secondary Services
	Recovery Services	HR	1	\$250.00	** Secondary Services
	Less than 12 mile radius from San Bernardino	EA	1	\$141.00	** Secondary Services
	12 -25 mile radius from San Bernardino	EA	1	\$286.00	** Secondary Services
	Less than 12 mile radius from Montclair	EA	1	\$141.00	** Secondary Services
	12 to 25 mile radius from Montclair	EA	1	\$286.00	** Secondary Services
	26 miles or more from pickup to delivery point	HR	1	\$63.00	** Secondary Services
	Recovery Services	HR	1	\$81.00	** Secondary Services
	Less than 12 mile radius from San Bernardino	EA	1	\$157.00	** Secondary Services
	12 -25 mile radius from San Bernardino	EA	1	\$318.00	** Secondary Services
	Less than 12 mile radius from Montclair	EA	1	\$157.00	** Secondary Services
	12 to 25 mile radius from Montclair	EA	1	\$358.00	** Secondary Services
	26 miles or more from pickup to delivery point	HR	1	\$79.00	** Secondary Services
	Recovery Services	HR	1	\$101.00	** Secondary Services
	Less than 12 mile radius from San Bernardino	EA	1	\$157.00	** Secondary Services
	12 -25 mile radius from San Bernardino	EA	1	\$318.00	** Secondary Services
	Less than 12 mile radius from Montclair	EA	1	\$157.00	** Secondary Services
	12 to 25 mile radius from Montclair	EA	1	\$358.00	** Secondary Services
	26 miles or more from pickup to delivery point	HR	1	\$79.00	** Secondary Services
	Recovery Services	HR	1	\$101.00	** Secondary Services

ATTACHMENT C - RATES



CONTRACT AGREEMENT

between

CONTRACTOR) CONTRACT DOCUMENTS
Bill and Wag's, Inc. 1516 S. Bon View Avenue Ontario, CA 91761	CONTRACT NO. MNT14-24B TOWING SERVICES
(hereinafter "CONTRACTOR") Telephone: 909-923-6100 Fax: 909-923-6108 Email: Dsikes@unitedroadtowing.com)))))))
And)) Contract Amount: 20,000.00)
Omnitrans 1700 West Fifth Street San Bernardino, CA 92411 (hereinafter "OMNITRANS"))))))))))))))))) Name: Jack Dooley)) Title: Director)) Telephone: (909) 379-7183)) Fax: (909) 885-2441)) Email: jack.dooley@omnitrans.org)))) Contract Administrator:) Name: Alesia Atkinson) Title: Contract Administrator) Telephone: (909) 379-7314) Fax: (909) 379-7107) Email: alesia.atkinson@omnitrans.org))



TABLE OF CONTENTS

1.	SCOPE OF WORK	4
2.	PERIOD OF PERFORMANCE	4
3.	COMPENSATION	5
4.	INVOICING AND PAYMENT	5
5.	AUDIT AND INSPECTION OF RECORDS	6
6.	NOTIFICATION	6
7.	OMNITRANS' AND CONTRACTOR'S REPRESENTATIVES	7
8.	DISPUTE RESOLUTION	8
9.	TERMINATION FOR CONVENIENCE	9
10.	TERMINATION FOR BREACH OF AGREEMENT	9
11.	ASSIGNMENT	. 10
12.	SUBCONTRACTING	. 10
13.	INDEPENDENT CONTRACTOR	11
14.	INSURANCE	11
15.	INDEMNITY	. 12
16.	REVISIONS IN SCOPE OF WORK	. 12
17.	RIGHTS IN TECHNICAL DATA	. 12
18.	OWNERSHIP OF REPORTS AND DOCUMENTS	. 12
19.	OWNERSHIP RIGHTS	. 13
20.	WORK FOR HIRE	. 13

21.	SUBMITTAL OF CLAIMS BY CONTRACTOR	. 14
22.	EQUAL OPPORTUNITY	. 14
24.	NOTIFICATION OF EMPLOYMENT OF OMNITRANS BOARD MEMBERS/ALTERNATES AND EMPLOYEES	. 15
25.	DISQUALIFYING POLITICAL CONTRIBUTIONS	. 15
26.	COMPLIANCE WITH LAW	. 15
27.	COMPLIANCE WITH LOBBYING POLICIES	. 15
28.	PUBLIC RECORDS ACT	. 16
29.	WAIVER/INVALIDITY	. 16
30.	FORCE MAJEURE	. 17
31.	CONFIDENTIALITY	. 17
32.	CONTRACTOR'S INTERACTION WITH THE MEDIA AND THE PUBLIC	. 17
33.	GOVERNING LAW	. 17
34.	MODIFICATIONS TO AGREEMENT	. 18
34.	DISPUTE RESOLUTION	. 18
35.	LICENSING, PERMITS AND INSPECTION COSTS	. 18
36.	PRECEDENCE	. 19
37.	ENTIRE AGREEMENT	. 20

Attachment A – Scope of Work

Attachment B – Regulatory Requirements

Attachment C - Rates

This Agreement i	s made and	l entered into	as of this		day of	, 2014
by and between	Omnitrans	(hereinafter	referred to	as	"OMNITRANS") and	_Bill and
Wag's Inc	(herei	nafter referre	ed to as "CC	NT	RACTOR").	

RECITALS

WHEREAS, OMNITRANS is a joint powers authority organized under Sections 6500 et seq. of the California Government Code and Section 130255 of the California Public Utilities 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 May 30, 2016, unless terminated as specified in Section 8 and 9 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 <u>May 31, 2016</u> Through <u>May 30, 2019</u>, which period encompasses the Initial Term.

3. 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 Twenty Thousand Dollars and 00/100 Dollars (\$20,000.00), 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.

4. 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

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

- Contract number
- Invoice number
- Description of Towing Service Provided
- Date
- Additional 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.

5. 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.

6. 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: Alesia Atkinson, Contract Administrator Bill and Wag's, Inc. 1516 S. Bon View Avenue Ontario, CA 91761 Attn: Dana Sikes, General Manager

7. 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: Jack Dooley, Director

- 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>
Dana Sikes, General Manager	

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.

8. 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.

9. TERMINATION FOR CONVENIENCE

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

10. 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 26, 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 8, 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.

11. 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.

12. 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	

13. 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.

14. INSURANCE

Throughout the duration of this Agreement, CONTRACTOR shall maintain the following minimum insurance coverage, which shall be full-coverage insurance not subject to self-insurance provisions. CONTRACTOR shall not of its own initiative cause such insurance to be canceled or materially changed during the term of this Agreement.

- A. Commercial General Liability including Products/Completed Operations: \$1,000,000 per occurrence for bodily and property damage liability and \$2,000,000 aggregate; Endorsement naming Omnitrans as Additional Insured.
- B. **Automobile Liability:** \$1,000,000 combined single limit bodily and property damage liability per accident; *Endorsement naming Omnitrans as Additional Insured.*
- C. **Workers' Compensation:** statutory limits or, a State-Approved program in an amount and form that meets all applicable requirements of the Labor Code of the State of California; *waiver of subrogation that includes Omnitrans*.
- D. **Employers Liability:** \$1,000,000 per occurrence.
- E. **Professional Liability:** \$1,000,000 per occurrence
- F. **On Hook Liability:** Insurance endorsements required for On-Hook Liability required for tow truck services:

Gross Vehicle Weight	Minimum Coverage Per Accident
Less than 10,000 lbs	\$ 50,000
10,000-40,000 lbs.	\$ 100,000
More than 40,000 lbs.	\$1,000,000

Additional Insured:

Omnitrans, its officers, officials, employees, agents, and volunteers.

15. 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.

16. 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.

17. 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.

18. 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.

19. OWNERSHIP RIGHTS

- In the event OMNITRANS rightfully obtains copies of Proprietary Data Α. 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 exclusive property of OMNITRANS (collectively. and "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 No use of OMNITRANS Intellectual Property shall be OMNITRANS. 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.

20. 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.

21. 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.

22. 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.

23. 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 reassigned to perform Work in any other capacity under this Agreement without OMNITRANS' prior written approval.

24. 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.

25. 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).

26. COMPLIANCE WITH LAW

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

27. 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.

28. 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.

29. 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.

30. 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.

31. 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.

32. 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.

33. 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.

34. 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.

34. DISPUTE RESOLUTION

- A. Any disputes between Contractor and Omnitrans relating to the implementation or administration of the Contract shall be resolved in accordance with this section.
 - 1) The parties shall first attempt to resolve the dispute informally in meetings or communications between Contractor and Omnitrans.
 - 2) If the dispute remains unresolved fifteen (15) days after it first arises, Contractor 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 Contractor.
 - 3) 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.
 - 4) Pending final resolution of a dispute under this section, Contractor shall proceed diligently with performance in accordance with the Contract and Omnitrans' CEO/General Manager's recommended decision.

35. LICENSING, PERMITS AND INSPECTION COSTS

A. The FIRM warrants that it has all necessary licenses and permits required by the laws of the United States, State of California, and the County of San Bernardino, the Local Jurisdictions, and all other appropriate governmental agencies, and agrees to maintain these licenses and permits in effect for the duration of the Agreement. Further, FIRM warrants that its employees, agents, and contractors and subcontractors shall conduct themselves in compliance with such laws and licensure requirements including, without limitation, compliance with laws applicable to nondiscrimination, sexual harassment and ethical behavior throughout the duration of this Agreement. FIRM further warrants that it shall not

retain or employ an unlicensed subcontractor to perform work on this Project. FIRM shall notify OMNITRANS immediately and in writing of its employees', agents', contractors' or subcontractors' inability to obtain or maintain, irrespective of the pendency of any appeal, any such licenses, permits, approvals, certificates, waivers, exemptions. Such inability shall be cause for termination of this Agreement.

B. Contractor shall procure all permits and licenses; pay all charges, assessments and fees, as may be required by the ordinances and regulations of the public agencies having jurisdiction over the areas in which the work is located, and shall comply with all the terms and conditions thereof and with all lawful orders and regulations of each such public agency relating to construction operations under the jurisdiction of such agency.

36. PRECEDENCE

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement, (2) Attachment A, Scope of Work, (3) Attachment B, Regulatory Requirements, (4) Attachment C, Rates, (5) provisions of MNT14-24R and (4) CONTRACTOR's proposal dated ____February 20, 2014_____.

37. 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	BILL AND WAG'S, INC.		
P. SCOTT GRAHAM CEO/General Manager	DANA SIKES General Manager		
DATE	Federal Tax I.D. No. 95-2763518		
	1 ederal Tax 1.D. No. <u>33-27 000 10</u>		
DP			
CM			

ATTACHMENT C - RATES

			Unit of			
	Section	Description	Measure	Quantity	Bill & Wag's Inc.	
1	Towing Charges 60' Buses Base Year 1 and 2: April 2014-May 31, 2016	Less than 12 mile radius from San Bernardino	EA	1	\$350.00	** Secondary Services
2	Towing Charges 60' Buses Base Year 1 and 2: April 2014-May 31, 2016	12 to 25 mile radius from San Bernardino	EA	1	\$390.00	** Secondary Services
3	Towing Charges 60' Buses Base Year 1 and 2: April 2014-May 31, 2016	Less than 12 mile radius from Montclair	EA	1	\$350.00	** Secondary Services
4	Towing Charges 60' Buses Base Year 1 and 2: April 2014-May 31, 2016	12 to 25 mile radius from Montclair	EA	1	\$390.00	** Secondary Services
5	Towing Charges 60' Buses Base Year 1 and 2: April 2014-May 31, 2016	26 miles or more from pickup to delivery point	HR	1	\$250.00	** Secondary Services
6	Towing Charges 60' Buses Base Year 1 and 2: April 2014-May 31, 2016	Recovery Services	HR	1	\$190.00	** Secondary Services
7	Towing Charges 40' Buses - Base Year 1 and 2: June 1, 2014-May 31, 2016	Less than 12 mile radius from San Bernardino	EA	1	\$275.00	* Primary Services
8	Towing Charges 40' Buses - Base Year 1 and 2: June 1, 2014-May 31, 2016	12 to 25 mile radius from San Bernardino	EA	1	\$325.00	* Primary Services
9	Towing Charges 40' Buses - Base Year 1 and 2: June 1, 2014-May 31, 2016	Less than 12 mile radius from Montclair	EA	1	\$275.00	* Primary Services
10	Towing Charges 40' Buses - Base Year 1 and 2: June 1, 2014-May 31, 2016	12 to 25 mile radius from Montclair	EA	1	\$325.00	* Primary Services
11	Towing Charges 40' Buses - Base Year 1 and 2: June 1, 2014-May 31, 2016	26 miles or more from pickup to delivery point	HR	1	\$135.00	* Primary Services
12	Towing Charges 40' Buses - Base Year 1 and 2: June 1, 2014-May 31, 2016	Recovery Services	HR	1	\$190.00	* Primary Services
	Towing Charges Cars, Light Trucks and Vans Base Year 1 and 2: June 1, 2014-May 31, 2016	Less than 12 mile radius from San Bernardino	EA	1	\$85.00	** Secondary Services
	Towing Charges Cars, Light Trucks and Vans Base Year 1 and 2: June 1, 2014-May 31, 2016	12 to 25 mile radius from San Bernardino	EA	1	\$130.00	** Secondary Services
	Towing Charges Cars, Light Trucks and Vans Base Year 1 and 2: June 1, 2014-May 31, 2016	Less than 12 mile radius from Montclair	EA	1	\$85.00	** Secondary Services
	Towing Charges Cars, Light Trucks and Vans Base Year 1 and 2: June 1, 2014-May 31, 2016	12 to 25 mile radius from Montclair	EA	1	\$130.00	** Secondary Services
17	, , ,	26 miles or more from pickup to delivery point	HR	1	\$85.00	** Secondary Services
18	Towing Charges Cars, Light Trucks and Vans Base Year 1 and 2: June 1, 2014-May 31, 2016	Recovery Services	HR	1	\$150.00	** Secondary Services
19	Option Year 1 June 1, 2016-May 31, 2017: 60' Buses	Less than 12 mile radius from San Bernardino	EA	1	\$367.50	** Secondary Services
20	Option Year 1 June 1, 2016-May 31, 2017: 60' Buses	12 to 25 mile radius from San Bernardino	EA	1	\$409.50	** Secondary Services
21		Less than 12 mile radius from Montclair	EA	1	\$367.50	** Secondary Services
22		12 to 25 mile radius from Montclair	EA	1	\$409.50	** Secondary Services
23	Option Year 1 June 1, 2016-May 31, 2017: 60' Buses	26 miles or more from pickup to delivery point	HR	1	\$262.50	** Secondary Services
24		Recovery Services	HR	1	\$199.50	** Secondary Services
		,			,	, , , , , , , , , , , , , , , , , , , ,
25	Option Year 2 June 1, 2017-May 31, 2018: 60' Buses	Less than 12 mile radius from San Bernardino	EA	1	\$378.50	* Primary Services
26	Option Year 2 June 1, 2017-May 31, 2018: 60' Buses	12 to 25 mile radius from San Bernardino	EA	1	\$422.00	* Primary Services
27	Option Year 2 June 1, 2017-May 31, 2018: 60' Buses	Less than 12 mile radius from Montclair	EA	1	\$378.50	* Primary Services
28	Option Year 2 June 1, 2017-May 31, 2018: 60' Buses	12 to 25 mile radius from Montclair	EA	1	\$422.00	* Primary Services
29	Option Year 2 June 1, 2017-May 31, 2018: 60' Buses	26 miles or more from pickup to delivery point	HR	1	\$270.50	* Primary Services
30	Option Year 2 June 1, 2017-May 31, 2018: 60' Buses	Recovery Services	HR	1	\$205.50	* Primary Services
31		Less than 12 mile radius from San Bernardino	EA	1	\$390.00	** Secondary Services
32		12 to 25 mile radius from San Bernardino	EA	1	\$435.00	** Secondary Services
33	Option Year 3 June 1, 2018-May 31, 2019: 60' Buses	Less than 12 mile radius from Montclair	EA	1	\$390.00	** Secondary Services
34	Option Year 3 June 1, 2018-May 31, 2019: 60' Buses	12 to 25 mile radius from Montclair	EA	1	\$435.00	** Secondary Services
35	Option Year 3 June 1, 2018-May 31, 2019: 60' Buses	26 miles or more from pickup to delivery point	HR	1	\$278.50	** Secondary Services
36	Option Year 3 June 1, 2018-May 31, 2019: 60' Buses	Recovery Services	HR	1	\$211.50	** Secondary Services
37	Option Year 1 June 1, 2016-May 31, 2017: 40' Buses	Less than 12 mile radius from San Bernardino	EA	1	\$289.00	* Primary Services
38		12 to 25 mile radius from San Bernardino	EA	1	\$341.00	* Primary Services
	Option Year 1 June 1, 2016-May 31, 2017: 40 Buses	Less than 12 mile radius from Montclair	EA	1	\$289.00	* Primary Services
40	Option Year 1 June 1, 2016-May 31, 2017: 40 Buses	12 to 25 mile radius from Montclair	EA	1	\$341.00	* Primary Services
41	Option Year 1 June 1, 2016-May 31, 2017: 40 Buses	26 miles or more from pickup to delivery point	HR	1	\$142.00	* Primary Services
	Option Year 1 June 1, 2010-May 31, 2017: 40 Buses Option Year 1 June 1, 2016-May 31, 2017: 40 Buses	Recovery Services	HR	1	\$199.50	* Primary Services
42	Option Tear 1 June 1, 2010-191ay 31, 2017. 40 Duses	necovery services	TIIV	1	7133.30	i initially Scivices

43	Option Year 2 June 1, 2017-May 31, 2018: 40' Buses
44	Option Year 2 June 1, 2017-May 31, 2018: 40' Buses
45	Option Year 2 June 1, 2017-May 31, 2018: 40' Buses
46	Option Year 2 June 1, 2017-May 31, 2018: 40' Buses
47	Option Year 2 June 1, 2017-May 31, 2018: 40' Buses
48	Option Year 2 June 1, 2017-May 31, 2018: 40' Buses
49	Option Year 3 June 1, 2018-May 31, 2019: 40' Buses
50	Option Year 3 June 1, 2018-May 31, 2019: 40' Buses
51	Option Year 3 June 1, 2018-May 31, 2019: 40' Buses
52	Option Year 3 June 1, 2018-May 31, 2019: 40' Buses
53	Option Year 3 June 1, 2018-May 31, 2019: 40' Buses
54	Option Year 3 June 1, 2018-May 31, 2019: 40' Buses
55	Option Year 1 June 1, 2016-May 31, 2017: Cars, Light Trucks and Vans
56	Option Year 1 June 1, 2016-May 31, 2017: Cars, Light Trucks and Vans
57	Option Year 1 June 1, 2016-May 31, 2017: Cars, Light Trucks and Vans
58	Option Year 1 June 1, 2016-May 31, 2017: Cars, Light Trucks and Vans
59	Option Year 1 June 1, 2016-May 31, 2017: Cars, Light Trucks and Vans
60	Option Year 1 June 1, 2016-May 31, 2017: Cars, Light Trucks and Vans
61	Option Year 2 June 1, 2017-May 31, 2018: Cars, Light Trucks and Vans
62	Option Year 2 June 1, 2017-May 31, 2018: Cars, Light Trucks and Vans

Option Year 2 June 1, 2017-May 31, 2018: Cars, Light Trucks and Vans
 Option Year 2 June 1, 2017-May 31, 2018: Cars, Light Trucks and Vans
 Option Year 2 June 1, 2017-May 31, 2018: Cars, Light Trucks and Vans
 Option Year 2 June 1, 2017-May 31, 2018: Cars, Light Trucks and Vans

Option Year 3 June 1, 2018-May 31, 2019: Cars, Light Trucks and Vans Option Year 3 June 1, 2018-May 31, 2019: Cars, Light Trucks and Vans

Option Year 3 June 1, 2018-May 31, 2019: Cars, Light Trucks and Vans Option Year 3 June 1, 2018-May 31, 2019: Cars, Light Trucks and Vans

71 Option Year 3 June 1, 2018-May 31, 2019: Cars, Light Trucks and Vans

72 Option Year 3 June 1, 2018-May 31, 2019: Cars, Light Trucks and Vans

Less than 12 mile radius from San Bernardino	EA	1	\$297.50	* Primary Services
12 to 25 mile radius from San Bernardino	EA	1	\$351.50	* Primary Services
Less than 12 mile radius from Montclair	EA	1	\$297.50	* Primary Services
12 to 25 mile radius from Montclair	EA	1	\$351.50	* Primary Services
26 miles or more from pickup to delivery point	HR	1	\$146.00	* Primary Services
Recovery Services	HR	1	\$205.50	* Primary Services
Less than 12 mile radius from San Bernardino	EA	1	\$306.50	* Primary Services
12 -25 mile radius from San Bernardino	EA	1	\$362.00	* Primary Services
Less than 12 mile radius from Montclair	EA	1	\$306.50	* Primary Services
12 to 25 mile radius from Montclair	EA	1	\$362.00	* Primary Services
26 miles or more from pickup to delivery point	HR	1	\$150.50	* Primary Services
Recovery Services	HR	1	\$211.50	* Primary Services
Less than 12 mile radius from San Bernardino	EA	1	\$89.00	** Secondary Services
12 -25 mile radius from San Bernardino	EA	1	\$136.50	** Secondary Services
Less than 12 mile radius from Montclair	EA	1	\$89.00	** Secondary Services
12 to 25 mile radius from Montclair	EA	1	\$136.50	** Secondary Services
26 miles or more from pickup to delivery point	HR	1	\$89.00	** Secondary Services
Recovery Services	HR	1	\$154.50	** Secondary Services
Less than 12 mile radius from San Bernardino	EA	1	\$92.00	** Secondary Services
12 -25 mile radius from San Bernardino	EA	1	\$140.50	** Secondary Services
Less than 12 mile radius from Montclair	EA	1	\$92.00	** Secondary Services
12 to 25 mile radius from Montclair	EA	1	\$140.50	** Secondary Services
26 miles or more from pickup to delivery point	HR	1	\$92.00	** Secondary Services
Recovery Services	HR	1	\$159.00	** Secondary Services
Less than 12 mile radius from San Bernardino	EA	1	\$95.00	** Secondary Services
12 -25 mile radius from San Bernardino	EA	1	\$145.00	** Secondary Services
Less than 12 mile radius from Montclair	EA	1	\$95.00	** Secondary Services
12 to 25 mile radius from Montclair	EA	1	\$145.00	** Secondary Services
26 miles or more from pickup to delivery point	HR	1	\$95.00	** Secondary Services
Recovery Services	HR	1	\$164.00	** Secondary Services

ATTACHMENT C - RATES



CONTRACT AGREEMENT

between

CONTRACTOR) CONTRACT DOCUMENTS
Dietz Towing, Inc.) CONTRACT NO. MNT14-24C
1300 Holt Blvd Ontario, CA 91761	TOWING SERVICES
(hereinafter "CONTRACTOR") Telephone: 909-986-2703 Fax: 909-984-9515 Email: dietztowing@yahoo.com)))))
And))) Contract Amount: 5,000.00))
Omnitrans 1700 West Fifth Street San Bernardino, CA 92411 (hereinafter "OMNITRANS")))))))))))) ()) () () ()
)) Contract Administrator:) Name: Alesia Atkinson) Title: Contract Administrator) Telephone: (909) 379-7314) Fax: (909) 379-7107) Email: alesia.atkinson@omnitrans.org))



TABLE OF CONTENTS

1.	SCOPE OF WORK	4
2.	PERIOD OF PERFORMANCE	4
3.	COMPENSATION	5
4.	INVOICING AND PAYMENT	5
5.	AUDIT AND INSPECTION OF RECORDS	6
6.	NOTIFICATION	6
7.	OMNITRANS' AND CONTRACTOR'S REPRESENTATIVES	7
8.	DISPUTE RESOLUTION	8
9.	TERMINATION FOR CONVENIENCE	9
10.	TERMINATION FOR BREACH OF AGREEMENT	9
11.	ASSIGNMENT	. 10
12.	SUBCONTRACTING	. 10
13.	INDEPENDENT CONTRACTOR	. 10
14.	INSURANCE	11
15.	INDEMNITY	11
16.	REVISIONS IN SCOPE OF WORK	. 12
17.	RIGHTS IN TECHNICAL DATA	. 12
18.	OWNERSHIP OF REPORTS AND DOCUMENTS	. 12
19.	OWNERSHIP RIGHTS	. 13
20.	WORK FOR HIRE	. 13

21.	SUBMITTAL OF CLAIMS BY CONTRACTOR	. 14
22.	EQUAL OPPORTUNITY	. 14
24.	NOTIFICATION OF EMPLOYMENT OF OMNITRANS BOARD MEMBERS/ALTERNATES AND EMPLOYEES	. 15
25.	DISQUALIFYING POLITICAL CONTRIBUTIONS	. 15
26.	COMPLIANCE WITH LAW	. 15
27.	COMPLIANCE WITH LOBBYING POLICIES	. 15
28.	PUBLIC RECORDS ACT	. 16
29.	WAIVER/INVALIDITY	. 16
30.	FORCE MAJEURE	. 16
31.	CONFIDENTIALITY	. 17
32.	CONTRACTOR'S INTERACTION WITH THE MEDIA AND THE PUBLIC	. 17
33.	GOVERNING LAW	. 17
34.	MODIFICATIONS TO AGREEMENT	. 17
34.	DISPUTE RESOLUTION	. 18
35.	LICENSING, PERMITS AND INSPECTION COSTS	. 18
36.	PRECEDENCE	. 19
37.	ENTIRE AGREEMENT	. 19

Attachment A – Scope of Work

Attachment B – Regulatory Requirements

Attachment C - Rates

This	s Agr	eement is	made and	entered into	as of this	·		day of	,	2014
by	and	between	Omnitrans	(hereinafter	referred	to	as	"OMNITRANS")	and _	_Dietz
Tov	ving,	Inc.	(here	inafter referr	ed to as "	CO	NTF	RACTOR").		

RECITALS

WHEREAS, OMNITRANS is a joint powers authority organized under Sections 6500 et seq. of the California Government Code and Section 130255 of the California Public Utilities 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 May 30, 2016, unless terminated as specified in Section 8 and 9 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 <u>May 31, 2016</u> Through <u>May 30, 2019</u>, which period encompasses the Initial Term.

3. 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.

4. 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

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

- Contract number
- Invoice number
- Description of Towing Service Provided
- Date
- Additional 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.

5. 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.

6. 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: Alesia Atkinson, Contract Administrator Dietez Towing, Inc. 1300 E. Holt Blvd. Ontario, CA 91761 Attn: Terry Jordan, President

7. 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: Jack Dooley, Director

- 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>
Terry Jordan, 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.

8. 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.

9. TERMINATION FOR CONVENIENCE

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

10. 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 26, 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 8, 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.

11. 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.

12. 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			

13. 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.

14. INSURANCE

Throughout the duration of this Agreement, CONTRACTOR shall maintain the following minimum insurance coverage, which shall be full-coverage insurance not subject to self-insurance provisions. CONTRACTOR shall not of its own initiative cause such insurance to be canceled or materially changed during the term of this Agreement.

- A. Commercial General Liability including Products/Completed Operations: \$1,000,000 per occurrence for bodily and property damage liability and \$2,000,000 aggregate; Endorsement naming Omnitrans as Additional Insured.
- B. **Automobile Liability:** \$1,000,000 combined single limit bodily and property damage liability per accident; *Endorsement naming Omnitrans as Additional Insured.*
- C. **Workers' Compensation:** statutory limits or, a State-Approved program in an amount and form that meets all applicable requirements of the Labor Code of the State of California; *waiver of subrogation that includes Omnitrans*.
- D. **Employers Liability:** \$1,000,000 per occurrence.
- E. **Professional Liability:** \$1,000,000 per occurrence
- F. **On Hook Liability:** Insurance endorsements required for On-Hook Liability required for tow truck services:

Gross Vehicle Weight	Minimum Coverage Per Accident
Less than 10,000 lbs 10,000-40,000 lbs.	\$ 50,000 \$ 100,000
More than 40,000 lbs.	\$1,000,000

Additional Insured:

Omnitrans, its officers, officials, employees, agents, and volunteers.

15. 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.

16. 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.

17. 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.

18. 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.

19. OWNERSHIP RIGHTS

- In the event OMNITRANS rightfully obtains copies of Proprietary Data Α. 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 exclusive property of OMNITRANS (collectively, sole and "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 maintenance of а transportation system administered 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.

20. 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.

21. 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.

22. 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.

23. 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 reassigned to perform Work in any other capacity under this Agreement without OMNITRANS' prior written approval.

24. 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.

25. 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).

26. COMPLIANCE WITH LAW

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

27. 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.

28. 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.

29. 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.

30. 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.

31. 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.

32. 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.

33. 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.

34. 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.

34. DISPUTE RESOLUTION

- A. Any disputes between Contractor and Omnitrans relating to the implementation or administration of the Contract shall be resolved in accordance with this section.
 - 1) The parties shall first attempt to resolve the dispute informally in meetings or communications between Contractor and Omnitrans.
 - 2) If the dispute remains unresolved fifteen (15) days after it first arises, Contractor 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 Contractor.
 - 3) 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.
 - 4) Pending final resolution of a dispute under this section, Contractor shall proceed diligently with performance in accordance with the Contract and Omnitrans' CEO/General Manager's recommended decision.

35. LICENSING, PERMITS AND INSPECTION COSTS

Α. The FIRM warrants that it has all necessary licenses and permits required by the laws of the United States, State of California, and the County of San Bernardino, the Local Jurisdictions, and all other appropriate governmental agencies, and agrees to maintain these licenses and permits in effect for the duration of the Agreement. Further, FIRM warrants that its employees, agents, and contractors and subcontractors shall conduct themselves in compliance with such laws and licensure requirements including, without limitation, compliance with laws applicable to nondiscrimination, sexual harassment and ethical behavior throughout the duration of this Agreement. FIRM further warrants that it shall not retain or employ an unlicensed subcontractor to perform work on this Project. FIRM shall notify OMNITRANS immediately and in writing of its employees', agents', contractors' or subcontractors' inability to obtain or maintain, irrespective of the pendency of any appeal, any such licenses, permits, approvals, certificates, waivers, exemptions. Such inability shall be cause for termination of this Agreement.

B. Contractor shall procure all permits and licenses; pay all charges, assessments and fees, as may be required by the ordinances and regulations of the public agencies having jurisdiction over the areas in which the work is located, and shall comply with all the terms and conditions thereof and with all lawful orders and regulations of each such public agency relating to construction operations under the jurisdiction of such agency.

36. PRECEDENCE

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement, (2) Attachment A, Scope of Work, (3) Attachment B, Regulatory Requirements, (4) Attachment C, Rates, (5) provisions of MNT14-24R and (4) CONTRACTOR's proposal dated February 19, 2014

37. ENTIRE AGREEMENT

OMNITRANS

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.

DIFTZ TOWING, INC.

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.

	2.2.2.3
P. SCOTT GRAHAM CEO/General Manager	TERRY JORDAN President
DATE	
	Federal Tax I.D. No. <u>20-565918</u>
DP	
CM	

ATTACHMENT C - RATES

					Dietz Towing, Inc
1	Towing Charges Cars, Light Trucks and Vans Base Year 1 and 2: June 1, 2014-May 31, 2016	Less than 12 mile radius from San Bernardino	EA	1	\$55.00
2	Towing Charges Cars, Light Trucks and Vans Base Year 1 and 2: June 1, 2014-May 31, 2016	12 to 25 mile radius from San Bernardino	EA	1	\$55.00
3	Towing Charges Cars, Light Trucks and Vans Base Year 1 and 2: June 1, 2014-May 31, 2016	Less than 12 mile radius from Montclair	EA	1	\$55.00
4	Towing Charges Cars, Light Trucks and Vans Base Year 1 and 2: June 1, 2014-May 31, 2016	12 to 25 mile radius from Montclair	EA	1	\$55.00
5	Towing Charges Cars, Light Trucks and Vans Base Year 1 and 2: June 1, 2014-May 31, 2016	26 miles or more from pickup to delivery point	HR	1	\$55.00
6	Towing Charges Cars, Light Trucks and Vans Base Year 1 and 2: June 1, 2014-May 31, 2016	Recovery Services	HR	1	\$55.00
7	Option Year 1 June 1, 2016-May 31, 2017: Cars, Light Trucks and Vans	Less than 12 mile radius from San Bernardino	EA	1	\$65.00
8	Option Year 1 June 1, 2016-May 31, 2017: Cars, Light Trucks and Vans	12 -25 mile radius from San Bernardino	EA	1	\$65.00
9	Option Year 1 June 1, 2016-May 31, 2017: Cars, Light Trucks and Vans	Less than 12 mile radius from Montclair	EA	1	\$65.00
10	Option Year 1 June 1, 2016-May 31, 2017: Cars, Light Trucks and Vans	12 to 25 mile radius from Montclair	EA	1	\$65.00
11	Option Year 1 June 1, 2016-May 31, 2017: Cars, Light Trucks and Vans	26 miles or more from pickup to delivery point	HR	1	\$65.00
12	Option Year 1 June 1, 2016-May 31, 2017: Cars, Light Trucks and Vans	Recovery Services	HR	1	\$65.00
13	Option Year 2 June 1, 2017-May 31, 2018: Cars, Light Trucks and Vans	Less than 12 mile radius from San Bernardino	EA	1	\$75.00
14	Option Year 2 June 1, 2017-May 31, 2018: Cars, Light Trucks and Vans	12 -25 mile radius from San Bernardino	EA	1	\$75.00
15	Option Year 2 June 1, 2017-May 31, 2018: Cars, Light Trucks and Vans	Less than 12 mile radius from Montclair	EA	1	\$75.00
16	Option Year 2 June 1, 2017-May 31, 2018: Cars, Light Trucks and Vans	12 to 25 mile radius from Montclair	EA	1	\$75.00
17	Option Year 2 June 1, 2017-May 31, 2018: Cars, Light Trucks and Vans	26 miles or more from pickup to delivery point	HR	1	\$75.00
18	Option Year 2 June 1, 2017-May 31, 2018: Cars, Light Trucks and Vans	Recovery Services	HR	1	\$75.00
19	Option Year 3 June 1, 2018-May 31, 2019: Cars, Light Trucks and Vans	Less than 12 mile radius from San Bernardino	EA	1	\$75.00
20	Option Year 3 June 1, 2018-May 31, 2019: Cars, Light Trucks and Vans	12 -25 mile radius from San Bernardino	EA	1	\$75.00
21	Option Year 3 June 1, 2018-May 31, 2019: Cars, Light Trucks and Vans	Less than 12 mile radius from Montclair	EA	1	\$65.00
22	Option Year 3 June 1, 2018-May 31, 2019: Cars, Light Trucks and Vans	12 to 25 mile radius from Montclair	EA	1	\$75.00
23	Option Year 3 June 1, 2018-May 31, 2019: Cars, Light Trucks and Vans	26 miles or more from pickup to delivery point	HR	1	\$75.00
24	Option Year 3 June 1, 2018-May 31, 2019: Cars, Light Trucks and Vans	Recovery Services	HR	1	\$75.00



1700 W. Fifth St. San Bernardino, CA 92411 909-379-7100 www.omnitrans.org

DATE: April 9, 2014

TO: Board Chair Alan Wapner and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Jennifer M. Sims, Director of Procurement

SUBJECT: AUTHORIZE RELEASE – IFB-MNT14-177

MISCELLANEOUS BUS PARTS

FORM MOTION

Authorize the CEO/General Manager to release Invitation for Bids IFB-MNT14-177, for the provision of Miscellaneous Bus Parts for a two (2) year base period, and three (3) single option years beginning June 12, 2014, and ending no later than June 11, 2019.

BACKGROUND

Omnitrans requires miscellaneous bus parts to ensure our fleet stays in good working condition and maintains service. Purchasing these items under contract provides the Agency a cost savings through economies of scale and avoids any lapse of inventory.

In April 2013, the Procurement team released and awarded New Flyer Bus and Cummins Engine Parts agreements to minimize any service interruptions due to bus maintenance issues. Although thousands of parts were solicited for, there are still more to parts that require contracts. It is the Procurement Department's goal to continue releasing solicitations until all required bus parts are under contract.

In accordance with the Procurement Policy 2000, Section 2.3.5.1.3 and FTA Circular 4220.1F, Board authorization and use of a formal procurement procedure is required to release Invitation for Bids for procurements for good/services exceeding \$100,000. The Independent Cost Estimate for this project is \$134,562 per year.

FUNDING SOURCE

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

Board Chair Alan Wapner and Members of the Omnitrans Board of Directors April 9, $2014 - Page\ 2$

Department	N/A
Department	1 1/1

Expenditure Code 103020 (Inventory)

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

CONCLUSION

By proceeding with this solicitation, Omnitrans will achieve cost savings and benefit from economies of scale.

PSG:JMS:JC



1700 W. Fifth St. San Bernardino, CA 92411 909-379-7100 www.omnitrans.org

DATE: April 9, 2014

TO: Board Chair Alan Wapner and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Jennifer M. Sims, Director of Procurement

SUBJECT: AUTHORIZE RELEASE - RFP-MNT14-222, HAZARDOUS WASTE

TREATMENT, TRANSPORTATION AND DISPOSAL SERVICES

FORM MOTION

Authorize the CEO/General Manager to release Request for Proposals RFP-MNT14-222 for the provision of Hazardous Waste Treatment, Transportation, and Disposal Services for a three year base period with two single option years beginning July 1, 2014, and ending no later than June 30, 2019.

BACKGROUND

Omnitrans' existing contract for hazardous waste services will expire on June 30, 2014. Omnitrans utilizes contract services to provide hazardous waste services for the East Valley and West Valley locations, and on an as-needed basis. Services include the hauling and disposal of motor oil, waste coolant, paint booth filters, oily rags, aerosol cans and other hazardous materials collected by Omnitrans. In addition, this contract will provide for 24-hour emergency responder services in the event of a hazardous material spill on-site or off-site involving motor vehicle related traffic accidents.

In accordance with the Procurement Policy 2000, Section 2.3.5.1.3 and FTA Circular 4220.1F, Board authorization and use of a formal procurement procedure is required to release Requests for Proposals for procurements for good/services exceeding \$100,000. The Independent Cost Estimate for this project is \$250,000 for the five (5) year period.

Board Chair Alan Wapner and Members of the Omnitrans Board of Directors April 9, 2014--Page 2

FUNDING SOURCE

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

Department 1200 Expenditure Code 505060

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

CONCLUSION

By proceeding with this solicitation, Omnitrans will ensure compliance regarding hazardous waste.

PSG:JMS:AA