



BOARD OF DIRECTORS MEETING
WEDNESDAY, JUNE 3, 2015 – 8:00 A.M.
OMNITRANS METRO FACILITY
1700 WEST 5TH STREET
SAN BERNARDINO, CA 92411

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

A. CALL TO ORDER

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

B. ANNOUNCEMENTS/PRESENTATIONS

1. Next Board Meeting: Wednesday, July 1, 2015 – 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.

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 – May 6, 2015 | 7 |
| 2. Receive and File Operations and Safety Committee Minutes – September 10, 2014 | 14 |
| 3. Adopt Resolution No. 281-15, Authorizing Filing of Transportation Development Act, Article 4, Reimbursement Claims to San Bernardino Associated Governments | 17 |
| 4. Adopt Resolution No. 282-15, Authorizing Filing Fiscal Year 2016 Applications with Federal State and Local Funding Sources for Federal Transportation Assistance | 18 |



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E. CONSENT CALENDAR CONTINUED

5. Adopt Resolution No. 283-15, Authorizing Filing of Application and Requests for Reimbursement for Governor's Office of Homeland Security Fiscal Year 2014-2015 California Transit Security Grant Program Funding	20
6. Authorize Award, Contract FIN15-134, Insurance Broker Services	22
7. Authorize Award, Contract HRS15-124, Insurance Broker Services: Health and Supplemental	47
8. Ratify Amendment 1 – MKP15-18, Travel Training DVD	71
9. Authorize Award, Contract MKP15-120 – Reduced Fare and ADA ID Card Program	105
10. Authorize Award, Contract MNT15-158, San Bernardino Transit Center Furniture	128
11. Authorize Award, Sole Source Purchase Order – E-Signs	184
12. Receive and File Liquefied Natural Gas (LNG) Operations Risk Assessment	186
13. Receive and File Compressed Natural Gas Fueling Infrastructure Feasibility Study and Approve Recommendation to Proceed with Developing Preliminary Design, Technical Specifications and Solicitation Documents with On-Call Architectural & Engineering Firm	239
14. Press Articles and Letters of Interest to the Board	291
15. Action on Consent Calendar	

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	304
2. Installation of New Chair and Election of New Vice Chair	305
3. Adopt Revisions to Procurement Policies to Increase CEO/General Manager's Authority from \$25,000 to \$50,000	306
4. Authorize Award, Contract HRS15-152, Assessment Testing: Pre-Employment, Job Analysis and Fitness for Duty	325
5. Authorize Annual Purchase Orders, Excess Workers' Compensation Insurance	348
6. Authorize Award, Contract ITS15-155, Cisco Smartnet Support	352
7. Authorize Award (Bench), Contract MNT15-07 (A-B), Brake Parts	354
8. Authorize Award, Sole Source, Contract MNT15-153, Trapeze Replacement Parts	395
9. Authorize Award, Contract OPS15-128, Fleet Fuel Card Services	417
10. Authorize Award, Contract OPS15-02, Purchased Transportation Services	442

G. PUBLIC HEARING

There is no Public Hearing scheduled.



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H. BOARD BUSINESS

Closed Session

1. Conference with Legal Counsel, Significant Exposure to Litigation pursuant to Government Code Section 54956.9(b)(3)(A) – One Case

I. REMARKS AND ANNOUNCEMENTS

J. ADJOURNMENT

ITEM # D1

DATE: June 3, 2015

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 June 3, 2015.

Item	Contract	Principals & Agents	Subcontractors
E6	Contract FIN15-134 Insurance Broker Services	<i>Alliant Insurance Services San Francisco, CA Michael Simmons Vice Chairman Public Entities</i>	N/A
E7	Contract HRS15-124 Insurance Broker Services Health and Supplemental	<i>Barney & Barney Insurance Services LLC San Diego, CA Hal Dunning Chief Operating Officer</i>	N/A
E8	Amendment 1, MKP15-18 Travel Training DVD	<i>Showreel International, Inc. Hollywood, CA Lynn B. Jackson CEO & President</i>	N/A
E9	Contract MKP15-120 Reduced Fare & ADA ID Card Program	<i>ScreenCheck NA Fort Wayne, IN Michael Fox Vice President</i>	N/A
E10	Contract MNT15-158 San Bernardino Transit Center Furniture	<i>G/M Business Interiors Dbas Goforth & Marti Riverside, CA Stephen Easley President</i>	N/A
E11	Sole Source Purchase Order E-Signs	<i>B&C Transit Oakland, CA Rashid Sigg VP of Operations</i>	N/A

Item	Contract	Principals & Agents	Subcontractors
E13	On-Call Architectural and Engineering Services	<i>STV Incorporated Rancho Cucamonga, CA David Borger Senior Vice President</i>	<i>Diaz Yourman & Associates Independent Roofing Consultants Jacobus & Yuang, Inc. Lerch Bates, Inc. Raymundo Engineering Co., Inc. Wilson & Company, Inc.</i>
F4	Contract HRS15-152 Assessment Testing Pre-Employment, Job Analysis and Fitness for Duty	<i>Rialto Physical Therapy Center, Inc. Rialto, CA Richard Blum-Johnston President</i>	<i>N/A</i>
F6	Contract ITS15-155 Cisco Smartnet Support	<i>NetXperts San Ramon, CA Carol Ann Nordine VP Operations</i>	<i>N/A</i>
F7	Contract MNT15-07 (A-B) Brake Parts	<i>American Moving Parts, LLC Los Angeles, CA Ernie Cisneros Vice President of Sales Muncie Transit Supply Muncie, IN Becky Huff Contract Manager</i>	<i>N/A</i>
F8	Sole Source, Contract MNT15-153 Trapeze Replacement Parts	<i>Trapeze Software Group Cedar Rapids, IA Heidi Wiebold Manager, Contracts</i>	<i>N/A</i>
F9	Contract OPS15-128 Fleet Fuel Card Services	<i>Flyers Energy LLC San Bruno, CA Rick Teske General Manager</i>	<i>N/A</i>
F10	Contract OPS-15-02 Purchased Transportation Services	<i>MV Transportation, Inc. Dallas, TX Bob Pagorek CFO</i>	<i>American Cab dba Pomona Valley Yellow</i>

PSG/JMS

CONFLICT OF INTEREST FORM

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

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

BOARD MEMBER INFORMATION

BOARD MEMBER NAME	CITY/COUNTY NAME	MEETING DATE

CAMPAIGN CONTRIBUTIONS

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

FINANCIAL INTEREST

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

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

SIGNATURE

Board Member Signature

Date

ITEM # _____ E1 _____

**BOARD OF DIRECTORS' MEETING
MINUTES OF MAY 6, 2015**

A. CALL TO ORDER

Chairman Alan Wapner called the regular meeting of the Omnitrans Board of Directors to order at 7:33 a.m., Wednesday, May 6, 2015, at the Omnitrans Facility located at 1700 West 5th Street, San Bernardino, California.

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

BOARD MEMBERS PRESENT

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

BOARD MEMBERS NOT PRESENT

Supervisor James Ramos, County of San Bernardino
Mayor Deborah Robertson, City of Rialto

OMNITRANS' ADMINISTRATIVE STAFF PRESENT

P. Scott Graham, CEO/General Manager
Diane Caldera, Director of Operations
Marge Ewing, Director of Human Resources, Safety & Security
Sam Gibbs, Director of Internal Audit
Andres Ramirez, IPMO Program Manager
Jennifer Sims, Director of Procurement
Don Walker, Director of Finance
Wendy Williams, Director of Marketing/Planning
Mike Bonacio, Technical Services Manager
Jeremiah Bryant, Service Planning Manager
Timothy Campbell, Safety & Regulatory Compliance Manager
Anna Jaiswal, Development Planning Manager
Maurice Mansion, Treasury Manager
Oscar Todstado, East Valley Maintenance Manager
Dennice Raygoza, Sr. Contract Administrator
Alesia Atkinson, Contracts Administrator
Joanne Cook, Contracts Administrator
Christine Van Matre, Contracts Administrator
Mark Crosby, Loss Prevention Supervisor
Ross Hrinko, Safety & Regulatory Compliance Specialist
Krystal Turner, Contracts Review Analyst
Vicki Dennett, Executive Assistant to CEO/General Manager

LEGAL COUNSEL

Carol Greene

B. ANNOUNCEMENTS/PRESENTATIONS

1. Next Board Meeting: Wednesday, June 3, 2015, 8:00 a.m.
Omnitrans Metro Facility Board Room

Employee of the Quarter was presented to Mae Sung.

Member Gonzales arrived at 7:38 a.m., and Member Rutherford arrived at 7:39 a.m.

C. COMMUNICATIONS FROM THE PUBLIC

Angela Nwokike, advocate for Independent Life, presented 100+ letters to the Board requesting to break the border because many riders are dropped short of their destinations at the Montclair Plaza End-of-Line.

Members Lilburn and Robles arrived at 7:41 a.m.

Paul Belinski commented on the rear-facing tie downs on the buses due to some logistics problems, esp. with extra-wide wheelchairs. He also mentioned that most bus drivers need refresher training on tying down wheelchairs.

Member Dailey arrived at 7:46 a.m.

Gabe Taylor is the advocate for Rolling Start, and added to Ms. Nwokike's presentation, stating about 40 of the letters came from residents of San Bernardino and Riverside counties. This is a tri-county effort to break down the barriers caused by arbitrary borders, and asked that the Board give careful consideration to this request.

Member Lovingood arrived at 7:50 a.m.

Michael A. Mitchell runs public transportation in the county. His concerns are for driver safety. What will Omnitrans be doing regarding onboard security? Also, what about the transportation of illegal drugs on the buses? He's noticed that drivers have been giving free rides to passengers who are in the business of selling drugs and undeserving of such largesse.

D. POSSIBLE CONFLICT OF INTEREST ISSUES

There were no Conflict of Interest issues identified.

E. CONSENT CALENDAR

1. Approve Board Minutes – April 1, 2015
2. Receive and File Executive Committee Minutes – February 6, 2015
3. Receive and File Administrative & Finance Committee Minutes – March 12, 2015
4. Receive and File Plans & Programs Committee Minutes – January 26, 2015
5. Receive and File Affirmative Action Status Report – As of April 14, 2015
6. Receive and File Agency Management Report – Third Quarter 2015
7. Receive and File Construction Progress Report No. 36 through March 30, 2015, sbX E Street Corridor BRT Project
8. Receive and File sbX E Street Corridor BRT Project Quarterly Report – March 2015
9. Receive and File Director of Finance Quarterly Report – Forward Fuel Purchases through March 2015
10. Receive and File Key Performance Indicators, 3rd Quarter Report
11. Adopt Affirmative Action Plan – 2015 through 2018
12. Authorize Release, Invitation for Bids IFB-MNT15-133, Underground Storage Tank and Above Ground Storage Tank Testing and Repair Services
13. Authorize Release, Invitation for Bids IFB-MNT15-162, Carpet Replacement and Installation
14. Authorize Release, Invitation for Bids IFB-MNT15-184, Onboard Radio Communication Replacement Parts
15. Authorize Award, Purchase Order ITS15-190, Cisco Components
16. Authorize Award, Purchase Order ITS15-194, Servers, VMWare/VEEAM License and Support

17. Authorize Award – Construction Contract IPMO15-10, “E” Street from 300’ Northerly of 10th Street to Highland Avenue Plan No. 13004
18. Press Articles and Letters of Interest to the Board

M/S (Eaton/Wapner) that approved the Consent Calendar, with the exception of Item #17, which was pulled for further discussion. Motion was unanimous by Members present.

Regarding Item #17, the FTA is concerned with the engineering design, and a satisfactory explanation has been provided to them. We are confident we will get approval from the FTA by May 22. City of San Bernardino has contributed \$162,000 towards design and construction management.

M/S (Eaton/DeLaRosa) that approved Item #17 unanimously.

F. DISCUSSION ITEMS

1. CEO/General Manager’s Report

CEO/General Manager Scott Graham reviewed the CEO/General Manager’s Report.

Member Hagman arrived at 7:55 a.m.

2. Authorize the CEO/General Manager to Begin Joint Powers Agreement Amendment Process

M/S (Rutherford/Roberts) that authorized the CEO/General Manager to begin the process of reviewing the Joint Powers Agreement and recommending updated language for consideration by the Board of Directors. Motion was unanimous by Members present.

3. Adopt Proposed Fiscal Year 2016 Strategic Initiatives and Support Fiscal Year 2016 Management Plan

M/S (Musser/Eaton) that (1) adopted proposed Fiscal Year 2016 Strategic Initiatives; and (2) supported proposed Fiscal Year 2016 Management Plan, which outlines the CEO/General Manager’s operational plan on how the initiatives will be achieved. Motion was unanimous by Members present.

Members Gonzales and Lilburn left during discussion of this item at 8:43 a.m., and both returned at 8:46 a.m., prior to vote.

4. Adopt Fiscal Year 2016 Service and Marketing Plans

M/S (Riddell/Eaton) that adopted the Omnitrans Fiscal Year 2016 annual Service and Marketing Plans. Motion was unanimous by Members present.

Member Musser left at 8:58 a.m. and returned at 9:00 a.m.

Member Lovingood left at 8:59 a.m., and Member Hagman left at 9:02 a.m., prior to vote on this item.

Members Rutherford and Gonzales left at 9:05 a.m.; Member Gonzales returned at 9:08 a.m., after vote on this item.

5. Adopt Fiscal Year 2016 Budget Plan

M/S (Gilbreath/Lilburn) that adopted the Omnitrans Fiscal Year 2016 Annual Budget Plan. Motion was unanimous by Members present.

Member Riddell left at 9:13 a.m., and returned at 9:17 a.m., prior to vote on this item.

6. Authorize Award, Contract MNT15-102, Stake Bed Trucks

M/S (Graham/Eaton) that authorized the CEO/General Manager to award Contract MNT15-102 to Enterprise Fleet Management Corporation of Anaheim, CA, for the purchase of six (6) Stake Bed Trucks in the amount of \$354,943, plus 3.27% for Cost Allocation Plan (CAP) in the amount of \$11,607, for a total not-to-exceed amount of \$366,550. Motion was passed by Members present, with Members Yates and Gonzales voting no.

7. Authorize Award, Contract MNT15-127A-B, Supply of Liquefied Natural Gas (LNG) and Compressed Natural Gas (CNG)

Derek Turbide from Clean Energy asked to speak on this item, thanking Board for award of CNG fuel, and reminding the Board of problems that occurred with Applied LNG Technologies (ALT) and their inability to deliver fuel years ago, suggesting the Board reconsider the award of LNG to ALT.

Cem Hacioglu, President & CEO of Applied LNG Technologies, also spoke on this issue. There have been no verified service issues since he took over ALT, so concerns that Omnitrans may be putting all their eggs in one basket are unfounded. He respectfully disagreed with Clean Energy's comments.

M/S (Yates/Roberts) that authorized the CEO/General Manager to award Contract MNT15-127A to Applied LNG Technologies, LLC of Westlake Village, CA, for the Supply of Liquefied Natural Gas (LNG) for a two-year base period beginning July 1, 2015 through June 30, 2017, in an amount not to exceed \$4,061,856, and the authority to exercise three single option years, ending no later than June 30, 2020, in an amount not to exceed \$6,319,680, for a total not-to-exceed amount of \$10,381,536, if all options are exercised, plus a ten percent contingency of \$1,038,154, for a total not-to-exceed amount of \$11,419,690; and that authorized the CEO/General Manager to award Contract MNT15-127B to Clean Energy of Newport Beach, CA, for the Supply of Compressed Natural Gas (CNG) for a two-year base period beginning July 1, 2015 through June 30, 2017, in an amount not to exceed \$353,514, and the authority to

exercise three single option years, ending no later than June 30, 2020, in an amount not to exceed \$1,209,376, for a total not-to-exceed amount of \$1,562,890, if all options are exercised, plus a ten percent contingency of \$156,289, for a total not-to-exceed amount of \$1,719,179. Motion was unanimous by Members present.

Member Lilburn left at 9:26 a.m. and returned at 9:28 a.m., prior to vote on this item.

8. Authorize Sole Source Award, Contract OPS15-198, Onboard Video Surveillance System

M/S (Yates/Lilburn) that authorized the CEO/General Manager to award sole source Contract OPS15-198 to System Development Integration, LLC (SDI), of Chicago, IL, for the provision of nine Onboard Video Surveillance System (OBVSS) and de-install/re-install six systems on Omnitrans' paratransit vehicles in an amount of \$89,494.38, and the authority to exercise four options to provide de-install/re-install services for paratransit vehicles to be purchased over the course of the next four years in an amount tot to exceed \$103,800.00, plus a ten percent contingency of \$19,329.44, and a 3.27% Cost Allocation Plan (CAP) of \$6,952.80, for a total not-to-exceed amount of \$219,576.62, should all options be exercised. Motion was unanimous by Members present.

9. Authorize Amendment 2, Contract PLN13-198, Ruben Campos Bus Stop Improvement

M/S (Yates/Eaton) that authorized the CEO/General Manager to execute Amendment 2 to increase Contract PLN13-198, Ruben Campos Bus Stop Improvement, with David Evans and Associates, Inc., of Ontario, CA, by \$61,709, plus a ten percent contingency of \$6,171, for a new not-to-exceed project amount of \$122,907, and extend the period of performance through December 31, 2016. Motion was unanimous by Members present.

G. PUBLIC HEARING

1. Public Hearing – Consider Proposed Award of 40-Foot Transit Buses, pursuant to Section 35554 of the Vehicle Code.

Procurement Director Jennifer Sims explained the reason for the need to have a public hearing on this issue. No comments have been received in response to postings.

M/S (Eaton/Yates) to conduct a Public Hearing on Wednesday, May 6, 2015, at 8:00 a.m., in accordance with Section 35554 of the Vehicle Code in association with procurement of 40-Foot Low Floor Compressed Natural Gas (CNG) Buses under Contract MNT15-103 and receive, consider, and place into the record any public comments regarding the proposed procurement. Hearing closed with no comments received. Motion was unanimous by Members present.

F. DISCUSSION ITEMS CONTINUED

10. Authorize Award, Contract MNT15-103, 40-Foot Low Floor Compressed Natural Gas (CNG) Buses

M/S (Yates/Eaton) that authorized the CEO/General Manager to award Contract MNT15-103 to New Flyer of America, Inc. of Winnipeg, Manitoba, Canada, for the provision of up to seventy-five (75) 40-Foot Low Floor Compressed Natural Gas (CNG) Buses, for five years beginning May 2015 and ending no later than April 30, 2020, pending the pre-award Buy America review as required by the 49 Code of Federal Regulations Part 661. The contract for the first fifteen buses results in a not-to-exceed amount of \$9,607,546 for buses, \$153,908 for spare parts, test equipment and special tools, one (1) percent contingency of \$96,075, and a 3.27% Cost Allocation Plan (CAP) of \$287,613 (FTA only), for a total not-to-exceed amount of \$10,145,142. The annual contract amount will be tied to the Producer Price Index and will not exceed the quantities and amount itemized for the purchase of buses authorized by the Board of Directors as part of the annual budget. Motion was unanimous by Members present.

H. BOARD BUSINESS

Adjourned to Closed Session at 9:37 a.m.

1. Significant Exposure to Litigation – Government Code Section 54956.9(b)(3)(B) – Hillwood; Real Property Negotiations – Government Code Section 54956.8 – 12400 Arrow Route, Rancho Cucamonga, California, P. Scott Graham as Negotiator for Omnitrans for negotiations with Hillwood

Open Session reconvened at 9:45 a.m. Chairman Wapner announced that there was no reportable action.

I. REMARKS AND ANNOUNCEMENTS

There were no remarks or announcements.

J. ADJOURNMENT

The Board adjourned at 9:45 a.m. The next regular meeting is scheduled Wednesday, June 3, 2015, at 8:00 a.m., with location posted on the Omnitrans website and at Omnitrans' San Bernardino Metro Facility.

Prepared by:

Christine Vega, Administrative Secretary

ITEM # _____ E2 _____

**OPERATIONS AND SAFETY COMMITTEE
MINUTES
SEPTEMBER 10, 2014**

A. CALL TO ORDER

The Operations and Safety Committee Meeting was called to order by Committee Chair Sam Spagnolo at 9:00 a.m., Wednesday, September 10, 2014.

1. Pledge of Allegiance
2. Roll Call – Self-Introductions

Committee Members Present

Mayor Pro Tem, Sam Spagnolo – Committee Chair
Mayor Ray Musser, City of Upland
Supervisor Gary Ovitt, County of San Bernardino
Supervisor James Ramos, County of San Bernardino
Council Member Dick Riddell, City of Yucaipa
Council Member John Roberts, City of Fontana
Mayor Pro Tem Alan Wapner, City of Ontario

Committee Members Not Present

Supervisor Josie Gonzales, County of San Bernardino
Mayor Pro Tem Ed Palmer, City of Rialto

OmniTrans Administrative Staff Present

Scott Graham, CEO/General Manager
Diane Caldera, Director of Operations
Jack Dooley, Director of Maintenance
Marjorie Ewing, Director of Human Resources/Safety & Security
Samuel Gibbs, Director of Internal Audit
Jacob Harms, Director of Information Technology
Andres Ramirez, Program Manager
Jennifer Sims, Director of Procurement
Don Walker, Director of Finance
Wendy Williams, Director of Marketing-Planning
Mark Crosby, Loss Prevention Supervisor
Ross Hrinko, Safety & Regulatory Compliance Specialist

B. ANNOUNCEMENTS/PRESENTATIONS

There were no announcements.

C. COMMUNICATION FROM THE PUBLIC

There were no communications from the public.

D. POSSIBLE CONFLICT OF INTEREST ISSUES

There were no conflict of interest issues identified.

E. DISCUSSION ITEMS

1. Approve Operations and Safety Committee Meeting Minutes – July 1, 2014

M/S (Wapner/Musser) that approved the Committee Minutes of July 1, 2014. Motion was unanimous by Members present.

2. Recommend to Board of Directors, Award Contract SAS14-241, LNG Operations Risk Assessment, Award Contract FIN14-269, Compressed Natural Gas (CNG) Fueling Infrastructure Feasibility Study, and Take No Further Action on RFP-ADM14-268, Remote Fueling Study.

CEO/General Manager Scott Graham presented the three recommendations before the Committee for consideration and briefly discussed the history of CNG Fuel at Omnitrans dating back to 1998, including the transition from CNG to LNG (Liquefied Natural Gas) in 2002, as a result of concerns raised by the surrounding community. Mr. Charles Love of Clean Energy was introduced and presented information comparing new technology available using pipeline gas with the technology that existed prior to 2002, touching on the following topics:

- **Similar Projects**—Four projects in Southern California face similar density challenges and are located directly next to neighbors (Two at LA Metro locations, Montebello Transit and San Diego), and none have received any complaints regarding odors coming from the station.
- **New Technology/Safety Measures**—No odor is vented into the atmosphere. The new system includes a surrounding skid that has several safety mechanisms in place that will shut the system down immediately, including safeguards in the event of an earthquake, lack of power to the station, and quality issues. The pipeline gas is the same that feeds into residences, and is on-demand; therefore no storage tanks are required. It is the same pipeline structure used by Southern California Gas (SoCal Gas). Based on the amount of sensors in place, the system would shut down if gas odor was detected and would not be released into the atmosphere.
- **Anatomy of a CNG Fuel Station** —The Montebello Transit CNG Fuel Station was featured and Mr. Love walked Members through the anatomy of a station. Omnitrans could consider installing an optional sound barrier, similar to what LA Metro and San Diego have done, as an added measure to be good neighbors.
- **Renewable Natural Gas** – Omnitrans could also consider using renewal natural gas from Clean Energy, which is farmed and redeemed from methane gas fields. Harmful

greenhouse gases are captured, run through a filtration system, and is the cleanest natural gas available.

- Committee Members questioned whether the SoCal Gas pipeline coming onto Omnitrans' property has sufficient pressure to fuel the buses, what transmission fees are charged by SoCal Gas, and what the return on investment is for returning to pipeline gas.

Mr. Love explained that these questions will be addressed in the feasibility study and CEO/General Manager Graham stated that capital funds to convert back to pipeline gas would have to be identified and operational costs would be reduced.

Committee Chair Spagnolo, as well as Board Chair Wapner and Member Ramos, thanked the community for bringing their concerns to the Board of Directors. By doing so, it provided an opportunity for Omnitrans to look at its existing system and the new technology available for consideration by the Board of Directors.

M/S (Musser/Ramos) to recommend to the Board of Directors, authorize the CEO/General Manager to award Contract SAS14-241 to Kazarians & Associates of Glendale, CA, in the amount of \$49,590, plus a 10% contingency of \$4,959; for a total not-to-exceed amount of \$54,549, for the provision of an LNG Operations Risk Assessment on Existing Omnitrans Fueling Facilities; and

Authorize the CEO/General Manager to award Contract FIN14-269 to Clean Energy of Seal Beach, CA, in the amount of \$30,200, plus a 10% contingency of \$3,020, for a total not-to-exceed amount of \$33,220; for the provision of a Compressed Natural Gas (CNG) Fueling Infrastructure Feasibility Study to evaluate switching from LNG to pipeline natural gas and removing existing LNG tanks, and

Authorize that no further action be taken on RFP-ADM14-268, Remote Fueling Study, as no responses to the solicitation were received.

Motion was unanimous by Members present.

F. REMARKS AND ANNOUNCEMENTS

There were no remarks or announcements.

G. ADJOURNMENT

The Operations and Safety Committee adjourned at 9:40 a.m. The next Committee Meeting will be scheduled and posted at Omnitrans and on the Omnitrans website.

Prepared by:

Christine Vega, Administrative Secretary

RESOLUTION NO. 281-15

A RESOLUTION OF THE OMNITRANS BOARD OF DIRECTORS, SAN BERNARDINO COUNTY, CALIFORNIA AUTHORIZING THE FILING OF TRANSPORTATION DEVELOPMENT ACT, ARTICLE 4, REIMBURSEMENT CLAIM TO THE SAN BERNARDINO ASSOCIATED GOVERNMENTS.

WHEREAS, Omnitrans is providing public transit services within San Bernardino County; and

WHEREAS, a portion of these services are funded through the Transportation Development Act, Article 4, which are subsequently administered and distributed by the San Bernardino Associated Governments, not to exceed the amount approved by the Omnitrans Board of Directors, in the adopted budget for Fiscal Year 2016.

NOW, THEREFORE BE IT RESOLVED BY THE OMNITRANS BOARD OF DIRECTORS, that: the Omnitrans CEO/General Manager is hereby authorized to file an Article 4, transportation development act claim with the San Bernardino Associated Governments not to exceed the amount approved by the Omnitrans Board of Directors, in the adopted budget for Fiscal Year 2016.

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Omnitrans Board of Directors, at their regular meeting held on the 3rd day of June, 2015, 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 3rd day of June 2015.

Alan D. Wapner
Board Chair, Omnitrans Board of Directors

Approved as to form:

Carol Greene
Counsel for Omnitrans

RESOLUTION NO. 282-15**A RESOLUTION AUTHORIZING THE FILING OF FISCAL YEAR 2016 APPLICATIONS WITH FEDERAL, STATE AND LOCAL FUNDING SOURCES, PARTICULARLY THE FEDERAL TRANSIT ADMINISTRATION, AN OPERATING ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION, FOR FEDERAL TRANSPORTATION ASSISTANCE AUTHORIZED BY TITLE 23 U.S.C. AND TITLE 49 U.S.C. CHAPTER 53 AND OTHER FEDERAL STATUTES ADMINISTERED BY THE FEDERAL TRANSIT ADMINISTRATION.**

WHEREAS, the Federal Transportation Administrator has been delegated authority to award Federal financial assistance for transportation projects;

WHEREAS, a grant or cooperative agreement for Federal financial assistance will impose certain obligations upon the Applicant, and may require the Applicant to provide the local share of the project cost;

WHEREAS, the Applicant has or will provide all annual certifications and assurances to the Federal Transit Administration required for the project;

WHEREAS, the Applicant has knowledge now or will gain knowledge in the future of additional funding opportunities through other Federal, State, or local sources;

NOW, THEREFORE, BE IT RESOLVED BY THE OMNITRANS BOARD OF DIRECTORS:

1. That Omnitrans' CEO/General Manager or his/her designee is authorized to execute and file applications for Federal assistance on behalf of Omnitrans with the Federal Transit Administration for Federal assistance authorized by Title 23 U.S.C. and Title 49 U.S.C. Chapter 53, or other Federal statutes authorizing a project administered by the Federal Transit Administration. The Applicant has received authority from the Designated Recipient to apply for Urbanized Area Formula Program assistance and Capital Program assistance. Further, Omnitrans' CEO/General Manager is authorized to file and execute applications for financial assistance from other Federal, State and local funding sources that will enhance or improve the existing transit services it provides.
2. That Omnitrans' CEO/General Manager is authorized to execute and file with its applications the annual certifications and assurances and other documents the Federal Transportation Administration requires before awarding a Federal assistance grant or cooperative agreement.

3. That Omnitrans' CEO/General Manager is authorized to execute grant and cooperative agreements with the Federal Transit Administration as well as other Federal, State and local funding sources on behalf of Omnitrans.

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 3rd day of June 2015, 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 3rd day of June 2015.

Alan D. Wapner
Chair, Omnitrans Board of Directors

Approved as to form:

Carol Greene
Counsel for Omnitrans

RESOLUTION NO. 283-15**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 2014-2015 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, the OMNITRANS is eligible to receive CTSGP funds; and

WHEREAS, OMNITRANS will apply for Fiscal Year 2015 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. 283-15 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 2015 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 subgranted 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 3rd day of June 2015, 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 3rd day of June 2015.

Alan D. Wapner
Chair, Omnitrans Board of Directors

Approved as to form:

Carol Greene
Counsel for Omnitrans

ITEM # E6

DATE: June 3, 2015

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 - CONTRACT FIN15-134
INSURANCE BROKER SERVICES**

FORM MOTION

Authorize the CEO/General Manager to award Contract FIN15-134 to Alliant Insurance Services, Inc., of San Francisco, CA, for the provision of Insurance Broker Services for a three-year base period beginning July 1, 2015 and ending no later than June 30, 2018, and the authority to exercise two (2) single option years ending no later than June 30, 2020, if all options are exercised.

BACKGROUND

Omnitrans currently uses the services of an independent insurance broker to provide property, crime, pollution, earthquake and flood insurances. The current contract expires June 30, 2015. Using an independent insurance broker ensures adequate competition between insurers to provide coverage for Omnitrans' fixed assets at a reasonable cost.

On April 1, 2015, Omnitrans' Board of Directors approved release of Request for Proposals RFP-FIN15-134. Notices were published in two newspapers of general circulation and posted on Omnitrans' online bidding system.

Eight proposals were received by the April 9, 2015 deadline. All were deemed responsive and evaluated in accordance with the selection criteria included in the RFP.

The following firms are ranked from highest to lowest score:

Criteria:	Possible Points	Alliant	Willis of Arizona	Wells Fargo	Arthur Gallagher	Aon Risk	HUB Intl.	Chun Ha	Tveter
Responsiveness	15	13.00	13.00	12.50	13.00	12.60	12.75	8.75	9.00
Quality of Work	40	34.27	34.13	32.40	32.67	33.60	33.33	25.33	23.33
Experience	20	17.87	17.53	17.73	17.00	18.33	17.27	12.33	12.00
Technical Total	75	65.14	64.66	62.63	62.67	64.53	63.35	46.41	44.33
Cost / Price	25	25.00	24.72	23.89	22.40	10.33	6.55	14.33	*
Total	100	90.14	89.39	86.52	85.07	74.86	69.90	60.74	44.33

*Quoted a 10% fee based on insurance premium. Premiums were not a part of this solicitation. Unable to calculate a score.

Six firms were identified to be within the competitive range and were requested to submit Best and Final Offers.

Criteria:	Possible Points	Alliant	HUB Intl.	Wells Fargo	Willis of Arizona	Aon Risk	Arthur Gallagher
Technical Total	75	65.14	63.35	62.63	64.66	64.53	62.67
BAFO Cost / Price	25	25.00	25.00	25.00	0.00	0.00	0.00
Grand Total	100	90.14	88.35	87.63	64.66	64.53	62.67

Three firms proposed no broker fees and received the full 25 points possible for price. Three firms proposed broker fees, but when compared to the no-cost proposals, their pricing scores calculated to zero. Insurance brokers are compensated by receiving commissions directly from the insurers. Alliant scored highest technically, meets the RFP requirements and offered services at no direct cost. Alliant currently manages the insurance pool for CalTIP (California Transit Insurance Pool). Omnitrans is a member of CalTIP.

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

FUNDING SOURCE

The required services will be budgeted in the Finance Department's operating budget for Fiscal Years 2016 through 2020.

Department 1800
Expenditure Code 506110

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

CONCLUSION

By proceeding with this solicitation, Omnitrans will continue to protect its fixed assets at a reasonable cost.

PSG:JMS:CVM



CONTRACT AGREEMENT

between

VENDOR
Alliant Insurance Services
1301 Dove Street, Suite 200
Newport Beach, CA 92660

CONTRACT DOCUMENTS

CONTRACT NO.
FIN15-134

Insurance Broker Services

(hereinafter "VENDOR")
Telephone: (949) 756-0271
Email: msimmons@alliant.com

And

Contract Amount: N/A

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

Omnitrans Project Manager:
Name: Donald Walker
Title: Director of Finance
Telephone: (909) 379-7131
Email: donald.walker@omnitrans.org

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



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ATTACHMENT A – SCOPE OF WORK

This Agreement is made and entered into as of _____ by and between Omnitrans (hereinafter referred to as "OMNITRANS") and Alliant Insurance Services, Inc. (hereinafter referred to as "VENDOR").

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 Exhibit A to this Agreement entitled "Attachment A, Scope of Work" (hereinafter referred to as "Work");

WHEREAS, VENDOR 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 Exhibit 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 the execution of this Agreement and continue through June 30, 2017, unless terminated as specified in Paragraphs 9 and 10. 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 VENDOR'S default as provided elsewhere in this Agreement. The maximum term of this Agreement shall be the period extended from July 1, 2017 through June 30, 2020, which period encompasses three option years.

3. CONTRACT OPTION YEARS

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

4. COMPENSATION

Vendor's compensation is derived from commissions paid directly to the Vendor by the insurance companies.

5. INVOICING AND PAYMENT

N/A

6. AUDIT AND INSPECTION OF RECORDS

VENDOR 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 VENDOR for a period of three (3) years after completion of this Agreement unless OMNITRANS' written permission is given to VENDOR to dispose of material prior to this time.

7. NOTIFICATION

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

To OMNITRANS:

To VENDOR:

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

Alliant Insurance Services, Inc.
1301 Dove Street, Suite 200
Newport Beach, CA 92660
Attn: Michael Simmons
Vice Chairman, Public Entities

8. OMNITRANS' AND VENDOR'S REPRESENTATIVES

A. OMNITRANS' Project Manager

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

Project Manager: Donald Walker, Director of Finance

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

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

<u>Name</u>	<u>Role</u>
Mike Simmons	Team Leader
P.J. Skarlanic	Account Executive
Courtney Ramirez	Service Team Coordinator
Mary Ann Elner	Service Team
Tim Leech	Loss Control Consultant
Bob Frey	Claims Director

Any propose/substitution or replacement by Vendor of Vendor'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 VENDOR based on OMNITRANS' confidence and reliance on the expertise of VENDOR's key personnel described above. VENDOR shall not reassign key personnel or assign other personnel to key personnel roles until VENDOR obtains prior written approval from OMNITRANS.

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 VENDOR specifying the nature, extent, and effective date of the termination. Upon receipt of the notice of termination, VENDOR 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 VENDOR fails to perform any of the provisions of this Agreement or fails to make progress as to endanger timely performance of this Agreement, OMNITRANS may give VENDOR written notice of such default. If VENDOR 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 VENDOR's breach of this Agreement.

- B. If a federal or state proceeding for relief of debtors is undertaken by or against VENDOR, or if VENDOR makes an assignment for the benefit of creditors, then OMNITRANS may immediately terminate this Agreement.
- C. If VENDOR violates Section 28, Compliance with Lobbying Policies, of this Agreement, then OMNITRANS may immediately terminate this Agreement.
- D. In the event OMNITRANS terminates this Agreement as provided in this Section, OMNITRANS may procure, upon such terms and in such manner as OMNITRANS may deem appropriate, Work similar in scope and level of effort to those so terminated, and VENDOR 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 VENDOR 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 VENDOR either voluntarily or by operation of law, nor may all or any part of this Agreement be subcontracted by VENDOR, without the prior written consent of OMNITRANS. Consent by OMNITRANS shall not be deemed to relieve VENDOR of its obligations to comply fully with all terms and conditions of this Agreement.

12. SUBCONTRACTING

OMNITRANS hereby consents to VENDOR's subcontracting of portions of the Work to the parties identified below for the functions described in VENDOR's proposal. VENDOR shall include in each subcontract agreement the stipulation that VENDOR, 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 VENDOR.

N/A

13. INDEPENDENT VENDOR

VENDOR's relationship to OMNITRANS in the performance of this Agreement is that of an independent Vendor. VENDOR's personnel performing Work under this Agreement shall at all times be under VENDOR's exclusive direction and control and shall be employees of VENDOR and not employees of OMNITRANS. VENDOR 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, VENDOR shall maintain the following minimum insurance coverage, which shall be full-coverage insurance not subject to self-insurance provisions. VENDOR 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. **Errors and Omissions Liability:** \$5,000,000 bodily and property damage liability per occurrence and aggregate or,
- D. **Professional Liability:** \$5,000,000 per occurrence and aggregate.
- E. **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.*

Additional Insured: Omnitrans, its officers, officials, employees, agents, and volunteers.

15. INDEMNITY

VENDOR 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 VENDOR) arising from or connected with any alleged act and/or omission of VENDOR, 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, VENDOR shall perform the Work, as amended.

Price Adjustments:

- A. Any change in the contract that causes an increase or decrease in cost to Omnitrans, or the time required for the performance of the contract, must be approved as prescribed herein.
- B. An equitable adjustment in the compensation and schedule will be made upon an approved Change Order.
- C. Vendor shall be liable for all costs resulting from, or for satisfactorily correcting, any and all unauthorized specification changes not properly ordered by written modification to the contract.
- D. Except as otherwise expressly provided in the Contract, when costs are a factor in any determination of a contract price adjustment, such costs shall be in accordance with the applicable cost principles of Subpart 31.2 of the Federal Acquisition Regulations (*FAR*) in effect at the onset of the Contract.

17. 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.

18. RIGHTS IN TECHNICAL DATA

- A. No material or technical data prepared by VENDOR under this Agreement is to be released by VENDOR 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. VENDOR shall be permitted to retain copies of such items for the furtherance of its technical proficiency; however, publication of this material is subject to the prior written approval of OMNITRANS. The provisions of this paragraph shall survive termination or expiration of this Agreement and/or final payment thereunder.

19. OWNERSHIP OF REPORTS AND DOCUMENTS

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

20. OWNERSHIP RIGHTS

- A. In the event OMNITRANS rightfully obtains copies of Proprietary Data under the terms of the separate License Agreement and Escrow Agreement that govern rights in Documentation, Software and Intellectual Property created and/or developed by Vendor, its Third Party Software Vendors and its Suppliers as part of the Project, any derivative works and associated documentation created by or on behalf of OMNITRANS by

Permitted Programmers (as defined in the License Agreement) shall be the sole and exclusive property of OMNITRANS (collectively, "OMNITRANS Intellectual Property"), and OMNITRANS may use, disclose and exercise dominion and full rights of ownership, in any manner in OMNITRANS Intellectual Property in connection with the use, operation and maintenance of a transportation system administered by OMNITRANS. No use of OMNITRANS Intellectual Property shall be made for any purpose other than in conjunction with a transportation system administered by VENDOR, 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, Vendor shall require all of its subcontractors and suppliers (including without limitation its Third Party Software Vendors) 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. Vendor 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 Vendor or its Third Party Software Vendors, and all Documentation and Software which is created by Vendor or its Third Party Software Vendors shall be Licensed Software or Licensed Documentation, as appropriate. All Licensed Software and Licensed Documentation shall be governed by the License Agreement by and between the parties of event date herewith.

21. WORK FOR HIRE

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

22. SUBMITTAL OF CLAIMS BY VENDOR

VENDOR 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 VENDOR.

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

23. EQUAL OPPORTUNITY

VENDOR 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. VENDOR shall take action to ensure that applicants and employees are treated without regard to the above.

24. STANDARD OF PERFORMANCE

- A. VENDOR 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. VENDOR 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 VENDOR's personnel at any level assigned to the performance of the Work at no additional fee or cost to OMNITRANS, if OMNITRANS considers such removal in its best interests and requests such removal in writing and such request is not done for illegal reasons. Further, an employee who is removed from performing Work under this Agreement under this Article shall not be re-assigned to perform Work in any other capacity under this Agreement without OMNITRANS' prior written approval.

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

To ensure compliance with OMNITRANS' Ethics Policy, VENDOR shall provide written notice to OMNITRANS disclosing the identity of any individual who VENDOR 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 VENDOR. VENDOR's written notice shall indicate whether the individual will be an officer, principal or shareholder of the entity and/or will participate in the performance of this Agreement.

26. DISQUALIFYING POLITICAL CONTRIBUTIONS

In the event of a proposed amendment to this Agreement, VENDOR shall provide prior to the execution of such amendment, a written statement disclosing any contribution(s) of \$250 or more made by VENDOR 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 VENDOR or subcontractor(s).

27. COMPLIANCE WITH LAW

VENDOR 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. VENDOR shall also comply with all Federal, state and local laws and ordinances.

28. COMPLIANCE WITH LOBBYING POLICIES

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

29. PUBLIC RECORDS ACT

- A. All records, documents, drawings, plans, specifications and other material relating to conduct of OMNITRANS' business, including materials submitted by VENDOR 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 VENDOR. OMNITRANS will endeavor to notify VENDOR 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 Vendors.

- C. In the event of litigation concerning the disclosure of any material submitted by VENDOR, OMNITRANS' sole involvement will be as a stake holder, retaining the material until otherwise ordered by a court. VENDOR, at its sole expense and risk, shall be responsible for prosecuting or defending any action concerning the materials, and shall defend, indemnify and hold OMNITRANS harmless from all costs and expenses, including attorneys' fees, in connection with such action.

30. WAIVER/INVALIDITY

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

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

31. FORCE MAJEURE

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

32. CONFIDENTIALITY

VENDOR agrees that for and during the entire term of this Agreement, any information, data, figures, records, findings and the like received or generated by VENDOR 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, VENDOR agrees that it will continue to treat as private and privileged any information, data, figures, records, findings and the like, and will not release any such information to any person, firm, corporation or other entity, either by statement, deposition, or as a witness, except upon direct prior written authority of OMNITRANS.

33. VENDOR'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 VENDOR for advertising or public relations purposes prior to publication. VENDOR shall not allow OMNITRANS

related copy to be published in its advertisements and public relations programs prior to receiving such approval. VENDOR shall ensure that all published information is factual and that it does not in any way imply that OMNITRANS endorses VENDOR's firm, service, and/or product.

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

34. GOVERNING LAW

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

35. MODIFICATIONS TO AGREEMENT

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

36. 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) provisions of solicitation RFP-FIN15-134 and (3) VENDOR's proposal dated April 23, 2015 and BAFO dated May 15, 2015.

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 VENDOR 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
INC.

ALLIANT INSURANCE SERVICES,

P. Scott Graham
CEO/General Manager

Michael Simmons
vice Chairman, Public Entities

Date

Date

Federal Tax I.D. No. 33-0785439

DP 
CM _____

**ATTACHMENT A – SCOPE OF WORK
FIN15-134, INSURANCE BROKER SERVICES**

1. INTRODUCTION

Insurance broker shall provide property, crime, pollution, earthquake and flood insurance coverage for Omnitrans' fixed assets, ensuring adequate competition between insurers at a reasonable cost.

2. GENERAL

- A. The use of admitted insurance carriers is preferred however non-admitted insurance carriers may be used to improve coverage and terms of insurance policies. A minimum A.M. Best Rating "A" is required.
- B. Vendor may combine property and liability quotes, but separate quotes are preferred. It is also encouraged to quote different deductibles for the Agency's consideration, but you must quote the specified deductibles.
- C. Additional services available to the Agency should be applicable to all coverages.
- D. For Omnitrans' financial information (Comprehensive Annual Financial Report Fiscal Year 2014), visit Omnitrans' website at www.omnitrans.org/about/reports.

3. REAL PROPERTY

- A. Omnitrans' real property includes four facilities and twenty-five transit stations.**
 - 1) East Valley Facility (City of San Bernardino)
 - a) Located at 1700 West Fifth Street, San Bernardino, CA 92411-2499.
 - b) 12.7 acre Administrative Offices and Maintenance Facility.
 - c) 25,600 square foot, two-story office structure constructed in 1992 (with automatic fire sprinkler system).
 - d) 127,000 square foot, two-story maintenance & operations building constructed in 1999 (with automatic fire sprinkler & fire pump system, and natural gas detection system).
 - e) Bus wash, steam rack and pit building with automatic fire sprinkler system under construction.
 - f) Gasoline and compressed natural gas fueling building with fare, and vacuum equipment under construction.
 - g) 400 square foot guard house constructed in 1992.
 - h) Compressed Natural Gas (CNG) Fuel Compressor/Generation Facility constructed in 1998.
 - 2) West Valley Facility (Montclair)
 - a) Located at 4748 Arrow Highway, Montclair, CA 91763-1208

- b) 5.5 acre Operations and Maintenance Facility.
 - c) 4,445 square foot operations building constructed in 1987 (smoke detection system).
 - d) 20,285 square foot maintenance building constructed in 1987 (automatic fire sprinkler system and natural gas detection system).
 - e) 3,250 square foot bus wash, steam clean facility constructed in 1987 (heat detection system in emergency generator equipment room).
 - f) 2,500 square foot fuel (diesel, gasoline, and compressed natural gas), fare, and vacuum facility constructed in 1987 (upgraded in 1998), and
 - g) Compressed Natural Gas (CNG) Fuel Compressor/Generation Facility constructed in 1996.
- 3) East Valley Paratransit Facility (City of San Bernardino)
- a) Located at 234 South "I" Street, San Bernardino, CA 92410
 - b) 4.7 acre Operations and Vehicle Maintenance complex.
 - c) 4,480 square foot office building constructed in 1975 (with automatic fire sprinkler system added in 1995).
 - d) 14,000 square foot vehicle maintenance building (with automatic fire sprinkler system).
 - e) Facility has a fuel island (unleaded fuel) constructed in 1989 (upgraded in 1999).
- 4) San Bernardino Transit Center
- a) Located at 599 West Rialto Avenue, San Bernardino, CA 92401
 - b) 6,802 square foot transit center building under construction; due to be completed July 2015
- 5) E-Street sbX Corridor Transit Stations
- a) Located along the E-Street sbX BRT Corridor
 - b) 25 bus shelters on the San Bernardino Express (sbX) route with amenities, including public art, ticket vending machines and bus arrival predication information system signage.

B. Omnitrans' Leased Properties:

- 1) West Valley Paratransit Facility
- a) Located at 9421 Feron Blvd, Rancho Cucamonga, CA 91730
 - b) 1.3 acre Operations and Vehicle Maintenance complex including fleet parking area, vehicle wash area with drain water clarifier constructed to specifications of the Cucamonga County Water District

- c) 6,000 square foot office and vehicle Maintenance facility
- d) 5,000 square foot ground floor, useable mezzanine 1,000 square foot upper floor, including training room
- 2) Other Locations
 - a) Crestline Summit (communication equipment)
 - b) Little Mountain [traffic signal prioritization (TSP) equipment]

4. PROPERTY INSURANCE COVERAGE – BUILDINGS AND CONTENTS

Primary policy shall provide:

- A. Blanket coverage of “all risk” for buildings, personal property, electronic data processing (EDP), walls/paving, business personal property, and office equipment.
- B. A liability limit of:
\$45,000,000 to include all buildings, contents and fueling facilities. (This figure is historical cost data. It is Omnitrans intention to obtain insurance at replacement cost which will be provided at the time of award).
- C. Deductibles of \$10,000 per occurrence

5. SERVICE EQUIPMENT

- A. Primary policy shall provide:
 - 1) Blanket Coverage of “all risk” revenue and radio equipment, and GPSVAL.
 - 2) A liability limit of:
\$3,000,000 to include all revenue and radio equipment installed on revenue vehicles, and GPSVAL. (This figure is historical cost data. It is Omnitrans intention to obtain insurance at replacement cost which will be provided at the time of award).
 - 3) Deductibles of \$10,000 per occurrence.
- B. Premiums for the above coverage should be shown separately.

6. CRIME INSURANCE

- A. Primary policy shall cover the variety of crime coverage forms available to protect against losses of money, securities and property by such causes of loss as: employee dishonesty, forgery, theft, burglary, kidnap, extortion, and fraud.
 - 1) Coverage of Crime on an occurrence basis.
 - 2) A liability limit of \$50,000 per occurrence
 - 3) Deductibles of \$1,000 per occurrence
- B. Premiums for this coverage shall be shown separately

7. POLLUTION LIABILITY

- A. Primary policy shall provide:
- 1) Coverage for five locations as follows:
 - a. 1700 West 5th Street, San Bernardino, CA
 - b. 4748 Arrow Hwy., Montclair, CA
 - c. 234 "I" Street, San Bernardino, CA
 - d. 9421 Feron Boulevard, Rancho Cucamonga, CA
 - e. 599 West Rialto Avenue, San Bernardino, CA 92401
 - 2) Limit of Liability as follows:
 - a. \$5,000,000 each loss, remediation exposure or legal defense expenses
 - b. \$10,000,000 total all losses, remediation expenses or legal defense expenses
 - 3) Retention as follows:
 - a. \$50,000 each loss remediation expense or legal defense expenses
- B. Premiums for this coverage shall be shown separately

8. EARTHQUAKE/FLOOD LIABILITY

- A. Primary policy shall provide insurance against damage by earthquakes and earth movement and overflow of water from its natural boundaries. More specifically defined by the National Flood Act of 1968 as "a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface waters from any source."
- 1) Coverage for four locations as follows:
 - a. 1700 West 5th Street, San Bernardino, CA
 - b. 4748 Arrow Hwy., Montclair, CA
 - c. 234 "I" Street, San Bernardino, CA
 - d. 9421 Feron Boulevard, #101, Rancho Cucamonga, CA
 - e. 599 West Rialto Avenue, San Bernardino, CA 92401
 - 2) Coverages:

Difference in Conditions including Earthquake and Flood covering Building, Contents and Electronic Data Processing; excluding Asbestos, certain Computer-related loss, Contamination & Pollution.
 - 3) Limit of Liability as follows:
 - a. \$5,000,000 per occurrence limit and annual aggregate

- b. \$1,500,000 building laws and ordinances sublimit
 - c. \$43,000,000 (total insurable values) business personal property, electronic data processing equipment, extra expenses at \$2,000,000
 - 4) Deductible:
 - a. 10% per unit for earthquake
 - b. 2% per unit for flood
 - c. \$50,000 all other perils
- B. Premiums for this coverage should be shown separately.

9. ADDITIONAL INFORMATION

- A. No policy disputes with any insurers during the past five years.
- B. Omnitrans has no subsidiaries.
- C. Omnitrans issues no stocks.
- D. Omnitrans anticipates no mergers or acquisitions.
- E. Omnitrans has used the same external general counsel since 1976.
- F. Omnitrans reserves the right to delete types of insurance and to add or delete insurable items during the course of the contract.

ITEM # E7

DATE: June 3, 2015

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 – CONTRACT HRS15-124
INSURANCE BROKER SERVICES: HEALTH AND SUPPLEMENTAL**

FORM MOTION

Authorize the CEO/General Manager to award Contract HRS15-124 to Barney and Barney Insurance Services, LLC, of San Diego, CA, for the provision of Insurance Broker Services for Health and Supplemental for a three-year base period beginning July 1, 2015 through June 30, 2018, and the authority to exercise two single option years, ending no later than June 30, 2020, if all option years are exercised. The broker does not receive a commission from Omnitrans in the performance of this Agreement.

BACKGROUND

Omnitrans requires on-going broker services for the agency to implement and maintain its Health and Supplemental benefit program. These services are required to maximize benefits for employees and contain costs for both Omnitrans and its employees.

On April 1, 2015, Omnitrans' Board of Directors authorized release of Request for Proposals RFQ-HRS15-124 for Insurance Broker Services for Health and Supplemental. Notices were published in two newspapers of general circulation and posted on Omnitrans' online bidding system.

Nine responses were received prior to the May 12, 2015 deadline. Seven were deemed responsive and evaluated in accordance with the evaluation criteria included in the RFQ

The following firms are ranked from highest to lowest score:

Criteria	Weight Factor	Barney & Barney	ChunHa Insurance	Wells Fargo	Willis	Burnham	Morgan & Franz	Hub Int'l
Work Plan	15	14.00	9.50	13.75	13.00	13.00	13.00	13.00
Quality of Work	40	37.33	28.00	36.00	36.00	34.67	34.67	32.00
Experience	20	18.67	13.33	18.67	18.00	16.67	17.33	16.67
Cost	25	18.75	25.00	5.00	5.00	7.50	4.55	5.77
Total Score	100	88.75	75.83	73.42	72.00	71.83	69.55	67.44

The commission paid by the carrier to Barney and Barney Insurance Services, LLC, is 2 percent for Year one and 1.75 percent for the next four consecutive years for Health, Medical and Vision and 2 percent for commission for supplemental.

Barney and Barney Insurance Services, LLC, received the highest technical score and offers competitive pricing. Barney and Barney was determined to be the best value for Omnitrans.

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

FUNDING SOURCE

There is no cost to Omnitrans associated with this procurement as the commissions are paid by the carrier.

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

CONCLUSION

Award of this contract will allow for the continuation of broker services for securing health and supplemental coverage.

PSG:JMS:JC



CONTRACT AGREEMENT

between

BARNEY AND BARNEY INSURANCE
SERVICES, LLC
9171 Towne Centre Dr., Suite 500
San Diego, CA 92122

(hereinafter "CONTRACTOR")
Telephone: 800-321-4696

And

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

CONTRACT DOCUMENTS

CONTRACT NO. HRS15-124

INSURANCE BROKER SERVICES,
HEALTH & SUPPLEMENTAL

Omnitrans Project Manager:

Name: Marjorie Ewing
Title: Director of Human Resources
Telephone: (909) 379-7261
Email: marjorie.ewing@omnitrans.org

Contract Administrator:

Name: Joanne Cook
Title: Contract Administrator
Telephone: (909) 379-7198
Email: joanne.cook@omnitrans.org



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ATTACHMENT A – SCOPE OF WORK

ATTACHMENT A1 – INDIRECT FEES/COMMISSION PAID

ATTACHMENT B - REGULATORY

This Agreement is made and entered into as of this 1 day of July, 2015 by and between Omnitrans (hereinafter referred to as "OMNITRANS") and Barney and Barney Insurance Services, LLC (hereinafter referred to as "CONTRACTOR").

RECITALS

WHEREAS, OMNITRANS is a joint powers authority organized under Sections 6500 et seq. of the California Government Code 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 June 30, 2018, 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 July 1, 2015 Through June 30, 2020, which period encompasses the Initial Term, Option Year 1 and Option Year 2.

3. COMPENSATION

The commission paid by the carrier to Barney and Barney Insurance Services, LLC is 2 percent for Year one and 1.75 percent for the next four consecutive years for Health Medical and Vision and 2 percent for supplemental.

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

Accountspayable@omnitrans.org

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

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

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

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

overpayment amount from monies due to CONTRACTOR under this Agreement or any other Agreement between OMNITRANS and CONTRACTOR.

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:

Omnitrans
1700 West Fifth Street
San Bernardino, CA 92411
Attn: Joanne Cook
Contract Administrator

To CONTRACTOR:

Barney & Barney Insurance
Services, LLC
9171 Towne Center Dr. Ste 500
San Diego, CA 92122
ATTN: Hal Dunning, COO

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: Marjorie Ewing, Director of Human Resources/Safety and Security

- 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>
Diane Wingfield	Principal
Christy Sineni	Client Service Executive
Elicia David	Client Manager II
Shannon O'Neill	Benefits Analyst

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	N/A
<hr/>	<hr/>
<hr/>	<hr/>

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, 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** Applicable to the work being performed, with a limit no less than \$1,000,000 per claim or occurrence and \$2,000,000 aggregate;
- E. **Environmental Liability:** Applicable to the work being performed, with a limit no less than \$1,000,000 per claim or occurrence and \$2,000,000 aggregate; *Endorsement naming Omnitrans as additional insured.*
- F. All drivers making deliveries of products specified on this RFQ shall have Hazardous Materials Endorsements on their Commercial Driver's License, and such other Endorsements as may be required by relevant laws and/or regulations.

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

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

execute any documents as OMNITRANS may from time to time reasonably request to effectuate the terms of this paragraph.

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

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 re-assigned 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.

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) provisions of RFP-HRS15-124 and (4) CONTRACTOR's proposal dated April 29, 2015.

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

BARNEY & BARNEY INSURANCE
SERVICES, LLC

P. SCOTT GRAHAM
CEO/General Manager

HAL DUNNING
Chief Operating Officer

DATE

Federal Tax I.D. No. 36-1436000

ATTACHMENT A – RFP-HRS15-124
SCOPE OF WORK
INSURANCE BROKER, HEALTH & SUPPLEMENTAL

A. Scope of Services

1. The Broker and or Brokers of Record shall perform the following services:
 - a) Market and place the Agency's insurance policies in anticipation of expiration of current policies:
 - Selection of the most suitable insurer(s) with whom to place risks, based on finance stability, ability to pay claims, and cost of insurance.
 - Assisting in the completion of applications to the insurers(s), 120 days prior to current policy expiration.
 - Negotiation of terms and conditions of coverage and cost.
 - Placement of insurance at most competitive prices.
 - b) Assist the Agency in establishing insurable values.
 - c) Act as liaison and assist the Agency in presenting difficult claims and collecting losses under applicable insurance policies.
 - d) Risk identification and evaluation
 - 1) Assisting the Agency in identifying and measuring risks.
 - 2) Developing alternatives to reduce the Agency's insurance costs.
 - e) Assist the Agency in establishing insurance requirements on vendor supply and services contracts on an "as-needed" basis.
 - f) Assist the Agency in any and all resolutions with a myriad of issues regarding eligibility of coverage.
 - g) Serve as ombudsman to the Agency with benefit vendors
 - h) Provide the latest technological tools such as web-based secured portal that provides the agency with access to its data, provides trends analysis and reporting mechanism to manage the benefit for cost-savings. Most commonly known as a Benefits Information Management System or Risk Information System (RMIS).
- Other Conditions
- 1) During the initial and option terms of the agreement, the Broker and/or Brokers of Record will be expected to initiate renewal activities for those insurance coverage currently in place.
 - 2) The Agency reserves the right to place any insurance coverage with a direct writer or through a formal pooling program should it be deemed in the Agency's best interest.

**HEALTH, MEDICAL, DENTAL, VISION
BROKER AND/OR BROKERS SERVICES**

b. Scope of Services

- 1) The Broker and/or Brokers of Record shall provide ongoing services that include, but are not limited to, the following:
 - a) Develop and design a comprehensive, cost effective health and welfare program, including developing and providing alternatives to reduce Omnitrans and the employees' costs; including wellness programs.
 - b) Market Omnitrans insurance coverage/policies in anticipation of expiration of current policies:
 - (1) Present for selection of the most suitable vendors/insurer(s) with whom to place coverage, based on financial stability and cost of coverage.
 - (2) Completion of any applications to the vendors/insurer(s).
 - (3) Negotiation best of terms and conditions of coverage and cost with vendors/insurer(s).
 - (4) Placement of health and welfare programs at most competitive prices.
 - (5) Ensure selected vendors/insurer(s) have excellent customer service and providing timely billing, reconciliation and other service related functions.
 - c) Ensure selected vendors/insurer(s) employ the latest technological tools such as online enrollment, billing, reporting and overall administrative functions. Provide the latest in technological tools such as web-based secured portal that provides the Agency with access to its data, provides trends analysis and reporting mechanism to manage the benefit for cost-savings. Most commonly known as a Benefits Information Management System or Risk Information System (RMIS)
 - d) Support and assist Omnitrans in resolving any problems under applicable insurance policies as necessary.
 - e) Keep Omnitrans informed in a timely manner of new legislation that affects it and assist as necessary in implementing any new legislation to maintain compliance.
 - f) Obtain benefits data or information, answer questions and provide analysis for Omnitrans upon request.
 - g) Attend meetings upon Agency's request.
 - h) Initiate, suggest and/or develop benefit communication pieces as required or requested.
 - i) Conduct meetings and training to explain any plan changes to employees and HR Staff.
 - j) Coordinate with HR Staff and participate in Open Enrollments as requested.

SUPPLEMENTAL INSURANCE

a. Scope of Services

- 1) The Provider (Insurance Carrier) of supplemental insurance will offer ongoing services that include, but are not limited to, the following:
 - Full Administration of the supplemental insurance program
 - a) Includes coordination with HR Staff to enroll employees and provide full-cycle administration of this enrollment which includes changes, and terminations
 - Ensure selected vendors/insurer(s) employ the latest technological tools such as online enrollment, billing, reporting and overall administrative functions.
 - Provide efficient and timely billing, reconciliation, and service related functions
 - Processing of all employee claims related to supplemental insurance
 - Employ consistent and timely employee interaction regarding supplemental insurance questions
 - Provide marketing of products offered to employees in coordination with HR Staff
 - Providing pre-enrollment communications and/or meetings to help employees understand the benefits
 - Conducting open enrollment sessions and re-enrollment process
 - Providing benefit statements to employees and the Agency
 - Attend meetings upon the Agency's request
 - Provide Section 125 Administration
 - Provide training to employees and HR Staff about products offered.
 - Provide the latest in technological tools such as web-based secured portal that provides the Agency with access to its data, provides trends analysis and reporting mechanism to manage the benefit for cost-savings. Most commonly known as a Benefits Information Management System or Risk Information System (RMIS).

*ATTACHMENT A1
OMNITRANS
INSURANCE BROKER AND/OR BROKER OF RECORD
HRS15-124*

INDIRECT FEES/COMMISSIONS PAID

Line	Contract Years	Begin & End Dates	Health, Medical, and Vision Insurance Brokerage Services –	Supplemental Insurance (to include Dental) Brokerage Services –
1.	Base Year 1	07-1-15 to 06-30-16	2%	2%
2.	Base Year 2	07-1-16 to 06-30-17	1.75%	2%
3.	Base Year 3	07-1-17 to 06-30-18	1.75%	2%
4.	Option Year 1	07-1-18 to 06-30-19	1.75%	2%
5.	Option Year 2	07-1-19 to 06-30-20	1.75%	2%

ITEM # E8

DATE: June 3, 2015

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: RATIFY AMENDMENT 1 – MKP15-18, TRAVEL TRAINING DVD

FORM MOTION

Ratify Amendment 1 to Contract MKP15-18 with Showreel International, Inc., of Hollywood, CA, for the provision of Omnitrans' Travel Training DVD project, to increase the contract by \$3,450, for a total not-to-exceed amount of \$27,100.

BACKGROUND

On August 26, 2014, staff released Request for Proposals RFP-MKP15-18 and posted on Omnitrans' online bidding system. The CEO/General Manager awarded a contract October 15, 2015, with Showreel International, Inc., to create an updated travel training video. After collaborating with the vendor, a production schedule was created and it became apparent that the number and work duration of extra actors needed for filming exceeded the availability of volunteers.

The quickest solution was to hire additional actors to keep the project on schedule. The rate of pay for extra actors is regulated by the Screen Actors Guild and not individual agents. Hiring extra actors through Showreel International, Inc., was determined to be the most time effective means to complete the project.

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

FUNDING SOURCE

FUNDING	GRANT	YEAR	PROJECT NAME	INTERNAL ORDER	AMOUNT
FTA	CA-57-X017	2009	Travel Training DVD	G09L00N3F	\$ 7,856
FTA	CA-57X062	2010	Travel Training DVD	G10L00N4F	\$14,444
LTF	N/A	2015	Travel Training DVD	G10L00N4L	\$ 4,800
Total					\$27,100

CONCLUSION

Ratification of Amendment 1 to Contract MKP15-18 allows for payment of the services provided for the timely completion of Omnitrans' Travel Training DVD project.

PSG:JMS:KT

**AMENDMENT 1
TO CONTRACT MKP15-18**

BETWEEN

OMNITRANS

AND

SHOWREEL INTERNATIONAL, INC.

Travel Training DVD

This Contract Amendment, effective _____ is entered into by and between Omnitrans (hereinafter called “Omnitrans”) and Showreel International, Inc. (hereinafter called “Contractor”).

RECITALS

WHEREAS:

- I. Omnitrans and Contractor have entered into Contract No. MKP15-18 on October 15, 2014 and;
- II. Omnitrans and Contractor hereby amend the Contract under Amendment 1 to increase the contract amount by \$3,450 for a new not-to-exceed amount of \$27,100.

NOW THEREFORE, OMNITRANS and CONTRACTOR hereby amend their Contract as follows:

- I. Contract Agreement title page **Contract Amount**, delete in its entirety and replace with:

Contract Amount: \$27,100.

- II. Contract Section 3, Compensation, page 5, delete in its entirety and replace with:

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

OMNITRANS’ maximum cumulative payment obligation under this Agreement shall not exceed Twenty-Seven Thousand One Hundred Dollars (\$27,100), including all amounts payable to CONTRACTOR for all costs, including but not limited to direct labor, other direct costs, subcontracts, indirect costs including, but not limited to, leases, materials, taxes, insurance, and profit.

III. As hereby amended, the Contract remains in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment 1 to be executed on the date shown below, and effective on the date first hereinabove written.

OMNITRANS

**SHOWREEL INTERNATIONAL,
INC.**

P. Scott Graham
CEO/General Manager

Lynn B. Jackson
CEO & President

Dated _____

Dated _____

DP _____

CM _____

ATTACHMENT B

REGULATORY REQUIREMENTS

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

ITEM #E8	AMENDMENT 1 – MKP15-18, TRAVEL TRAINING DVD
ITEM #E10	CONTRACT – MNT15-158, SAN BERNARDINO TRANSIT CENTER FURNITURE
ITEM #E11	SOLE SOURCE PURCHASE ORDER – E-SIGNS
ITEM #F4	CONTRACT HRS15-152, ASSESSMENT TESTING: PRE-EMPLOYMENT, JOB ANALYSIS AND FITNESS FOR DUTY
ITEM #F7	CONTRACT MNT15-07 (A-B) BRAKE PARTS
ITEM #F8	SOLE SOURCE CONTRACT MTN15-153, TRAPEZE REPLACEMENT PARTS
ITEM #F10	CONTRACT OPS15-02, PURCHASED TRANSPORTATION SERVICES

Attachment B

REGULATORY REQUIREMENT

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REGULATORY REQUIREMENTS

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

RR-01

ADMINISTRATIVE CODE *

A. Applicability

This Article applies to all contracts.

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

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

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

C. Campaign Contributions

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

RR-02
DISCRIMINATION *

A. Applicability

This Article applies to all contracts.

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

RR-03
WHISTLEBLOWER REQUIREMENTS *

A. Applicability

This Article applies to all contracts.

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

RR-04
PUBLIC RECORDS ACT *

A. Applicability

This Article applies to all contracts.

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

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

RR-05

ACCESS TO RECORDS *

A. Applicability

This Article applies to all federally funded contracts.

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

RR-06

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

A. Applicability

This Article applies to all federally funded contracts.

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

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

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

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

RR-07

ENERGY CONSERVATION REQUIREMENTS

- A. **Applicability**

This Article applies to all federally funded contracts.

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

RR-08

CIVIL RIGHTS REQUIREMENTS *

- A. **Applicability**

This Article applies to all federally funded contracts.

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

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

C. Equal Employment Opportunity

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

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

This Article applies to all federally funded contracts.

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

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

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

This Article applies to all federally funded contracts.

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

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

RR-11

SUSPENSION AND DEBARMENT*

A. Applicability

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

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

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

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

RR-12

RECYCLED PRODUCTS

A. Applicability

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

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

RR-13

CLEAN WATER AND CLEAN AIR REQUIREMENTS*

A. Applicability

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

B. CLEAN WATER REQUIREMENTS

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

C. CLEAN AIR

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

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

RR-14

COMPLIANCE WITH FEDERAL LOBBYING POLICY *

A. Applicability

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

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

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

RR-15

BUY AMERICA *

A. Applicability

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

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

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

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

RR-16

CARGO PREFERENCE*

A. Applicability

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

B. USE OF UNITED STATES FLAG VESSELS

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

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

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

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

RR-17 FLY AMERICA

A. Applicability

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

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

RR-18 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT *

A. Applicability

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

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

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

RR-19

DISADVANTAGED BUSINESS ENTERPRISE (DBE) 49 CFR Part 26

Disadvantaged Business Enterprises

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

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

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

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

RR-20 ADA ACCESS

A. Applicability

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

B. Access Requirements for Persons with Disabilities

Contractor shall comply with:

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

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

RR-21

ALCOHOL AND DRUG-FREE WORKPLACE PROGRAM *

A. Applicability

This Article applies to federally funded contracts for transit operations.

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

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

C. Certificate of Compliance

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

D. Drug and Alcohol Testing Program

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

E. Alcohol and Drug Free Workplace Program

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

RR-22

TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS *

A. Applicability

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

B. General Transit Employee Protective Requirements

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

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

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

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

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

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

E. Indemnity

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

RR-23

BONDING REQUIREMENTS

Applicability to Contracts

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

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

RR-24

DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS

Background and Application

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

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

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

Clause Language

Davis-Bacon and Copeland Anti-Kickback Acts

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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PRIVACY ACT - 5 U.S.C. 552

Applicability to Contracts

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

Flow Down

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

Model Clause/Language

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

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

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

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

Applicability to Contracts

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

Flow Down

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

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

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

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

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

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

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

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

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

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

Applicability to Contracts

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

Flow Down

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

Model Clauses/Language

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

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

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. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to Omnitrans Construction Manager. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of Omnitrans Project Manager shall be binding upon the Contractor and the Contractor shall abide by the decision.

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

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

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

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

RR-29

VETERANS PREFERENCE

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

END OF REGULATORY REQUIREMENTS

ITEM # E9

DATE: June 3, 2015

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 - CONTRACT MKP15-120
REDUCED FARE AND ADA ID CARD PROGRAM**

FORM MOTION

Authorize the CEO/General Manager to award Contract MKP15-120 to ScreenCheck North America LLC, of Fort Wayne, IN, for the provision of a Reduced Fare and Americans with Disabilities Act (ADA) Identification (ID) Card Program beginning July 1, 2015 through June 30, 2017, in the amount of \$31,051, with the authority to exercise three (3) single options years ending June 30, 2020, totaling \$46,017, for a total amount of \$77,068, less the \$2.00 processing fee per application reimbursed to Omnitrans for the five (5) year period estimated at \$22,000, for a total not-to-exceed amount of \$55,068.

BACKGROUND

On June 1 2005, Omnitrans' Board of Directors approved the outsourcing of the reduced fare and ADA ID card program to minimize Agency costs. Omnitrans issues identification cards for senior citizens and people with disabilities. This ID Program is mandated by Title 49, Part 37, Subpart A and Title 49 – CFR Part 609, as well as the ADA Act signed into law July 26, 1990.

On March 19, 2015, staff released Request for Proposals RFP-MKP15-120 for the provision of a Reduced Fare and ADA/ID Card Program, and posted on Omnitrans' online bidding system. One proposal was received by the scheduled proposal deadline from ScreenCheck North America, LLC, Omnitrans' current vendor.

In accordance with FTA Circular 4220.1F, and Omnitrans Procurement Procedure 4050.1, Section 5, awarding a contract in response to a single proposal is allowed when it can be determined that the lack of competition was not due to unfavorable terms and conditions or unduly restrictive scopes of work or technical specifications. Staff contacted firms that were notified of the solicitation but chose not to submit proposals. As a result of the survey, staff determined that the limited number of responses was unrelated to any term or specification and deemed the process valid.

The joint evaluation committee evaluated the proposal based upon the criteria set forth in the Request for Proposals (RFP).

		ScreenCheck
Criteria	Points Possible	
Project Approach	15	13.50
Quality of Work Plan	40	33.33
Experience/ Qualifications	20	18.00
Technical Total	75	64.83
Cost/Price	25	25
Final Total Score	100	89.83

Calculating Omnitrans' estimated usage, the contract value for a five (5) year period is \$77,068. A \$2.00 processing fee is assessed for Senior and Disability Identification Cards. ScreenCheck will collect said fees and credit Omnitrans for monies collected. The anticipated fees credited to Omnitrans are estimated to total \$22,000 over the five (5) year period.

ScreenCheck's Best and Final Offer (BAFO) reduced the originally proposed price by an additional \$2,055.

The proposed price is considered fair and reasonable when compared to the previous five (5) year contract amount of \$51,344 reflecting an increase of only \$3,724 for all five (5) years.

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

FUNDING SOURCE

The costs associated with this procurement are budgeted in the Marketing Department's Operating Budget as follows:

Department 1400
Expenditure Code 503060

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

CONCLUSION

By proceeding with this award, Omnitrans will continue to manage the issuance of identification cards for senior citizens and people with disabilities as required by law.

PSG:JMS:KT



CONTRACT AGREEMENT

between

CONTRACTOR
ScreenCheck NA
2621 Corrinado Court
Fort Wayne, IN 46808

(hereinafter "CONTRACTOR")
Telephone: (630) 852-8200
Fax: (331) 777-2525

And

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

CONTRACT DOCUMENTS

CONTRACT NO. MKP15-120

REDUCED FARE/ADA ID CARD PROGRAM

Contract Amount: \$22,251.00

Omnitrans Project Manager:

Name: Diane Bojorquez
Title: Sales Supervisor
Telephone: (909) 379-7148
Fax: (909) 888-0524
Email: diane.bojorquez@omnitrans.org

Contract Administrator:

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



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ATTACHMENT A – SCOPE OF WORK

ATTACHMENT C – PRICING SCHEDULE

This Agreement is made and entered into as of this 1st day of July, 2015 by and between Omnitrans (hereinafter referred to as "OMNITRANS") and ScreenCheck NA (hereinafter referred to as "CONTRACTOR").

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 June 30, 2017, 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 July 1, 2017 Through June 30, 2020, which period encompasses the Initial Term, Option Year 1, Option Year 2 and Option Year 3.

3. CONTRACT OPTIONS

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

4. COMPENSATION

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

OMNITRANS' maximum cumulative payment obligation under this Agreement shall not exceed Twenty Two Thousand Two Hundred and Fifty One Dollars (\$22,251.00), 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.

5. INVOICING AND PAYMENT

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

CONTRACTOR shall submit invoices in duplicate to:

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

Accountspayable@omnitrans.org

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

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

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

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

6. AUDIT AND INSPECTION OF RECORDS

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

7. NOTIFICATION

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

To OMNITRANS:

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

To CONTRACTOR:

ScreenCheck NA
2621 Corrinado Court
Fort Wayne, IN 46808
Attn: Michael Fox

8. OMNITRANS' AND CONTRACTOR'S REPRESENTATIVES

A. OMNITRANS' Project Manager

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

Project Manager: Diane Bojorquez.

- 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>
Michael Fox	Vice President
_____	_____
_____	_____
_____	_____

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

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

9. DISPUTE RESOLUTION

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

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

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

10. TERMINATION FOR CONVENIENCE

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

11. TERMINATION FOR BREACH OF AGREEMENT

- A. If CONTRACTOR fails to perform any of the provisions of this Agreement or so fails to make progress as to endanger timely performance of this Agreement, OMNITRANS may give CONTRACTOR written notice of such default. If CONTRACTOR does not cure such default or provide a plan to cure such default which is acceptable to OMNITRANS within the time permitted by OMNITRANS, then OMNITRANS may terminate this Agreement due to CONTRACTOR's breach of this Agreement.
- B. If a federal or state proceeding for relief of debtors is undertaken by or against CONTRACTOR, or if CONTRACTOR makes an assignment for the benefit of creditors, then OMNITRANS may immediately terminate this Agreement.
- C. If CONTRACTOR violates Section 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.

12. ASSIGNMENT

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

13. SUBCONTRACTING

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

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

14. INDEPENDENT CONTRACTOR

CONTRACTOR's relationship to OMNITRANS in the performance of this Agreement is that of an independent Contractor. CONTRACTOR's personnel performing Work under this Agreement shall at all times be under CONTRACTOR's exclusive direction and control and shall be employees of CONTRACTOR and not employees of OMNITRANS. CONTRACTOR shall pay

all wages, salaries and other amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.

15. INSURANCE

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** Applicable to the work being performed, with a limit no less than \$1,000,000 per claim or occurrence and \$2,000,000 aggregate;
- E. All drivers making deliveries of products specified on this RFQ shall have Hazardous Materials Endorsements on their Commercial Driver's License, and such other Endorsements as may be required by relevant laws and/or regulations.

Additional Insured:

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

16. INDEMNITY

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

directors, employees, agents, Subcontractors or suppliers. This indemnity shall survive termination or expiration of this Agreement and/or final payment thereunder.

17. REVISIONS IN SCOPE OF WORK

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

18. RIGHTS IN TECHNICAL DATA

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

19. OWNERSHIP OF REPORTS AND DOCUMENTS

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

20. OWNERSHIP RIGHTS

- A. In the event OMNITRANS rightfully obtains copies of Proprietary Data under the terms of the separate License Agreement and Escrow Agreement that govern rights in Documentation, Software and Intellectual

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

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

21. WORK FOR HIRE

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

22. SUBMITTAL OF CLAIMS BY CONTRACTOR

CONTRACTOR shall file any and all claims with OMNITRANS' Project Manager in writing within thirty (30) days of the event or occurrence giving rise to the claim. The claim shall be in sufficient detail to enable OMNITRANS to ascertain

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

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

23. EQUAL OPPORTUNITY

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

24. STANDARD OF PERFORMANCE

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

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

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

26. DISQUALIFYING POLITICAL CONTRIBUTIONS

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

27. COMPLIANCE WITH LAW

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

28. COMPLIANCE WITH LOBBYING POLICIES

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

29. PUBLIC RECORDS ACT

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

30. WAIVER/INVALIDITY

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

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

31. FORCE MAJEURE

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

32. CONFIDENTIALITY

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

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

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

34. GOVERNING LAW

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

35. MODIFICATIONS TO AGREEMENT

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

36. LICENSING, PERMITS AND INSPECTION COSTS

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

37. 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) provisions of MKP15-120 and (4) CONTRACTOR's proposal dated April 15, 2015, and CONTRACTOR's BAFO dated May 4, 2015.

38. ENTIRE AGREEMENT

This Agreement, and any attachments or documents incorporated herein by inclusion or by reference, constitutes the complete and entire agreement

between OMNITRANS and CONTRACTOR and supersedes any prior representations, understandings, communications, commitments, agreements or proposals, oral or written.

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

OMNITRANS

SCREENCHECK NA

P. SCOTT GRAHAM
CEO/General Manager

MICHAEL FOX
Vice President

DATE

Federal Tax I.D. No. 33-1224235

DP_____
CM_____

ATTACHMENT C - PRICING FORM							
MKP15-120							
REDUCED FARE ADA/ID CARD PROGRAM							
Unit Rate Base Year 1 (FY: July 1, 2015 - June 30, 2016)							
	Description	Unit Price	Usage	Extended	Omni Fees	Extended	Total
1	Disabled Card	\$ 3.50	2000	\$ 7,000.00	\$ (2.00)	\$ (4,000.00)	\$ 3,000.00
2	Senior Card	\$ 2.12	200	\$ 424.00	\$ (2.00)	\$ (400.00)	\$ 24.00
3	ADA Card	\$ 2.12	3000	\$ 6,360.00			\$ 6,360.00
4	Rejection Letters	\$ 2.26	200	\$ 452.00			\$ 452.00
5	Refusal Letters	\$ 2.26	100	\$ 226.00			\$ 226.00
				\$ 14,462.00			
	Software Fee						\$ 1,800.00
6	Subtotal						\$ 11,862.00
Unit Rate Base Year 2 (FY: July 1, 2016 - June 30, 2017)							
1	Disabled Card	\$ 3.56	2000	\$ 7,120.00	\$ (2.00)	\$ (4,000.00)	\$ 3,120.00
2	Senior Card	\$ 2.18	200	\$ 436.00	\$ (2.00)	\$ (400.00)	\$ 36.00
3	ADA Card	\$ 2.18	3000	\$ 6,540.00			\$ 6,540.00
4	Rejection Letters	\$ 2.31	200	\$ 462.00			\$ 462.00
5	Refusal Letters	\$ 2.31	100	\$ 231.00			\$ 231.00
				\$ 14,789.00			
6	Subtotal						\$ 10,389.00
Unit Rate Option Year 1 (FY: July 1, 2017 - June 30, 2018)							
1	Disabled Card	\$ 3.61	2000	\$ 7,220.00	\$ (2.00)	\$ (4,000.00)	\$ 3,220.00
2	Senior Card	\$ 2.23	200	\$ 446.00	\$ (2.00)	\$ (400.00)	\$ 46.00
3	ADA Card	\$ 2.23	3000	\$ 6,690.00			\$ 6,690.00
4	Rejection Letters	\$ 2.36	200	\$ 472.00			\$ 472.00
5	Refusal Letters	\$ 2.36	100	\$ 236.00			\$ 236.00
				\$ 15,064.00			
6	Subtotal						\$ 10,664.00
Unit Rate Option Year 2 (FY: July 1, 2018 - June 30, 2019)							
1	Disabled Card	\$ 3.66	2000	\$ 7,320.00	\$ (2.00)	\$ (4,000.00)	\$ 3,320.00
2	Senior Card	\$ 2.28	200	\$ 456.00	\$ (2.00)	\$ (400.00)	\$ 56.00
3	ADA Card	\$ 2.28	3000	\$ 6,840.00			\$ 6,840.00
4	Rejection Letters	\$ 2.41	200	\$ 482.00			\$ 482.00
5	Refusal Letters	\$ 2.41	100	\$ 241.00			\$ 241.00
				\$ 15,339.00			
6	Subtotal						\$ 10,939.00
Unit Rate Option Year 3 (FY: July 1, 2018 - June 30, 2019)							
1	Disabled Card	\$ 3.71	2000	\$ 7,420.00	\$ (2.00)	\$ (4,000.00)	\$ 3,420.00
2	Senior Card	\$ 2.33	200	\$ 466.00	\$ (2.00)	\$ (400.00)	\$ 66.00
3	ADA Card	\$ 2.33	3000	\$ 6,990.00			\$ 6,990.00
4	Rejection Letters	\$ 2.46	200	\$ 492.00			\$ 492.00
5	Refusal Letters	\$ 2.46	100	\$ 246.00			\$ 246.00
				\$ 15,614.00			
6	Subtotal						\$ 11,214.00
Total All 5 Years							\$ 55,068.00

ITEM # E10

DATE: June 3, 2015

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 – CONTRACT MNT15-158
SAN BERNARDINO TRANSIT CENTER (SBTC) FURNITURE**

FORM MOTION

Authorize the CEO/General Manager to award Contract MNT15-158 for the provision of San Bernardino Transit Center (SBTC) Furniture to Goforth & Marti, dba G/M Business Interiors, of Riverside, CA, in the amount of \$34,252.27, plus a ten percent contingency of \$3,425.23, and a 3.27% Cost Allocation Plan of \$1,232.05, for a total not-to-exceed amount of \$38,909.55.

BACKGROUND

The San Bernardino Transit Center is scheduled to open the first week of September 2015. The facility will include a customer service/ pass sales counter, a lost and found, security offices, an operations supervisor's office, public and staff restrooms, and a staff break room with a dining area. The furnishings required include desks, tables, chairs, storage cabinets, filing cabinets, shelving, display cases, a brochure rack, and dry-erase white boards.

On April 15, 2015, staff released Request for Quotes RFQ-MNT15-158. The solicitation required the prime Contractor to carry a Contractor's License D-34, Pre-Fabrication Equipment, as required by the State of California. Notices were published in two newspapers of general circulation and posted on Omnitrans' online bidding system. One bid was received by the May 6, 2015 deadline, and was deemed responsive.

In accordance with FTA Circular 4220.1F, and Omnitrans Procurement Procedure 4050.1, Section 5, awarding a contract in response to a single bid is allowed when it can be determined that the lack of competition was not due to unfavorable terms and conditions or unduly restrictive scopes of work or technical specifications. Staff contacted firms that were notified of the solicitation but chose not to submit bids. As a result of the survey, staff determined that the limited number of responses was unrelated to any term or specification and deemed the process valid.

Goforth & Marti's bid for the entire project is \$34,252.27, which was based on Herman Miller brand furnishings approved as equal during the solicitation process. The Independent Cost Estimate (ICE) of \$52,391.70 was based on the more expensive brand, Haworth. Price is, therefore, considered fair and reasonable.

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

FUNDING SOURCE

Funding for this procurement will be reimbursed by SANBAG from Local Transportation Funds.

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

CONCLUSION

By approving award of this contract, Omnitrans will meet the furnishing requirements needed to commence operations of the San Bernardino Transit Center beginning in early September 2015.

PSG:JMS:CVM



CONTRACT AGREEMENT

between

CONTRACTOR)
Goforth & Marti, dba G/M Business Interiors)
1099 West La Cadena Drive)
Riverside, CA 92501)

(hereinafter "CONTRACTOR"))
Telephone: (909) 556-2356)
Email: casiodu@gmbi.net)

And)

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

CONTRACT DOCUMENTS

CONTRACT NO. MNT15-158

SAN BERNARDINO TRANSIT CENTER FURNITURE

Contract Amount: \$34,252.27

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

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



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ATTACHMENT A – SCOPE OF WORK / PLANS / SPECIFICATIONS

ATTACHMENT B – REGULATORY REQUIREMENTS

ATTACHMENT C – PREVAILING WAGES

This Agreement is made and entered into as of this _____ day of _____, by and between Omnitrans (hereinafter referred to as "OMNITRANS") and Goforth & Marti, dba G/M Business Interiors (hereinafter referred to as "CONTRACTOR").

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 _____, unless terminated as specified in Section 9 and 10 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.

3. COMPENSATION

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

LUMP SUM.....\$34,252.27

OMNITRANS' maximum cumulative payment obligation under this Agreement shall not exceed Thirty-Four Thousand Two Hundred Fifty-Two Dollars and twenty-seven cents (\$34,252.27), 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

Accountspayable@omnitrans.org

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

- Contract number
 - Invoice number
 - Description of delivery
 - Delivery Date
 - Total quantity delivered
 - Information as requested by OMNITRANS
- B. OMNITRANS shall remit payment within thirty (30) calendar days of approval of the invoices by OMNITRANS' Project Manager. Capital projects pay the first Thursday of each month.

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: Christine Van Matre,
Contract Administrator

Goforth & Marti, dba G/M Business Interiors
1099 West La Cadena Drive
Riverside, CA 92501
Attn: Chuck Asiodu, Account Executive

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: Mark Montgomery, Facilities Manager.

- a. Except as expressly specified in this Agreement, the Contracting Officer may exercise any powers, rights and/or privileges that have been lawfully delegated by OMNITRANS. Nothing in this Agreement should be construed to bind OMNITRANS for acts of its officers, employees, and/or agents that exceed the delegation of authority specified herein.
- b. The Contracting Officer has delegated to the Project Manager certain powers and duties in connection with this Agreement. The Project Manager is the authorized representative of the Contracting

Officer for matters related to this Agreement. The Project Manager or his/her designee is empowered to:

1. Have general oversight of the Work and this Agreement, including the power to enforce compliance with this Agreement.
 2. Reserve the right to remove any portion of the Work from CONTRACTOR which have not been performed to OMNITRANS' satisfaction.
 3. Subject to the review and acceptance by OMNITRANS, negotiate with CONTRACTOR all adjustments pertaining to this Agreement for revision.
- c. In addition to the foregoing, the Project Manager shall have those rights and powers expressly set forth in other sections of this Agreement.

B. Contractor's Key Personnel

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

<u>Name</u>	<u>Role</u>
Chuck Asiodu	Account Executive, point of contact
Trina Head	Account Manager Assistant
Brandi Lukosz	Project Application Specialist
Tony Marzullo	Project 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. CONTRACT OPTIONS

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

12. LIQUIDATED DAMAGES

In Contractor fails to complete the work within the time specified in this Agreement, the Contractor will be required to pay Omnitrans the Dollar Amount of \$100 **per calendar day** of delay as agreed to liquidated damages.

- A. These damages shall be deducted from any monies due, or which may thereafter become due, to Contractor under this Contract.
- B. Omnitrans documentation will serve as the record of fact when assessing liquidated damages.
- C. Force Majeure applies:
 - 1) When it is beyond the control of Contractor to provide the service requirements contained in this contract, the Liquidated Damages will be prorated accordingly.
 - 2) Omnitrans shall be the sole judge of the applicability of the Force Majeure clause as relates to Liquidated Damages.

13. ASSIGNMENT

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

14. SUBCONTRACTING

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

Subcontractor's Name and Address	Work to Be Performed
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N/A	
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15. INDEPENDENT CONTRACTOR

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

16. INSURANCE

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** Applicable to the work being performed, with a limit no less than \$1,000,000 per claim or occurrence and \$2,000,000 aggregate.

Additional Insured:

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

17. INDEMNITY

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

18. REVISIONS IN SCOPE OF WORK

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

19. RIGHTS IN TECHNICAL DATA

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

20. OWNERSHIP OF REPORTS AND DOCUMENTS

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

21. OWNERSHIP RIGHTS

- A. In the event OMNITRANS rightfully obtains copies of Proprietary Data under the terms of the separate License Agreement and Escrow Agreement that govern rights in Documentation, Software and Intellectual Property created and/or developed by Contractor, its Third Party Software Contractors and its Suppliers as part of the Project, any derivative works and associated documentation created by or on behalf of OMNITRANS by Permitted Programmers (as defined in the License Agreement) shall be the sole and exclusive property of OMNITRANS (collectively, "OMNITRANS Intellectual Property"), and OMNITRANS may use, disclose and exercise dominion and full rights of ownership, in any manner in OMNITRANS Intellectual Property in connection with the use, operation and maintenance of a transportation system administered by OMNITRANS. No use of OMNITRANS Intellectual Property shall be made for any purpose other than in conjunction with a transportation system administered by CONTRACTOR, and OMNITRANS shall not sell, lease, rent, give away or otherwise disclose any OMNITRANS Intellectual Property to any outside third party other than Permitted Programmers. To

the extent there may be any question of rights of ownership or use in any OMNITRANS Intellectual Property, Contractor shall require all of its subcontractors and suppliers (including without limitation its Third Party Software Contractors) to assign to OMNITRANS, all worldwide right, title and interest in and to all OMNITRANS Intellectual Property in a manner consistent with the foregoing terms of this paragraph. Contractor shall execute any documents as OMNITRANS may from time to time reasonably request to effectuate the terms of this paragraph.

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

22. WORK FOR HIRE

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

23. SUBMITTAL OF CLAIMS BY CONTRACTOR

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

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

24. EQUAL OPPORTUNITY

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

25. STANDARD OF PERFORMANCE

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

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

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

27. DISQUALIFYING POLITICAL CONTRIBUTIONS

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

28. COMPLIANCE WITH LAW

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.

29. COMPLIANCE WITH LOBBYING POLICIES

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

30. PUBLIC RECORDS ACT

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

prosecuting or defending any action concerning the materials, and shall defend, indemnify and hold OMNITRANS harmless from all costs and expenses, including attorneys' fees, in connection with such action.

31. WAIVER/INVALIDITY

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

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

32. FORCE MAJEURE

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

33. CONFIDENTIALITY

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

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

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

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

35. GOVERNING LAW

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

36. MODIFICATIONS TO AGREEMENT

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

37. LICENSING, PERMITS AND INSPECTION COSTS

- A. The 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.

38. 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, Prevailing Wages (5) provisions of RFQ-MNT15-158 and (6) CONTRACTOR's bid dated May 6, 2015.

39. ENTIRE AGREEMENT

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

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

OMNITRANS

GOFORTH & MARTI,
dba G/M BUSINESS INTERIORS

P. Scott Graham
CEO/General Manager

Stephen L. Easley
President/CEO

DATE

DATE

Federal Tax I.D. No. 95-2091271

DP 
CM 

ATTACHMENT A - SCOPE OF WORK / PLANS / SPECIFICATIONS
MNT15-158
SAN BERNARDINO TRANSIT CENTER (SBTC) FURNITURE

1. GENERAL DESCRIPTION OF WORK

- A. Contractor shall provide and install furnishings for its new San Bernardino Transit Center building, located at 599 W. Rialto Avenue, San Bernardino CA 92401.
- B. The Transit Center building includes a public lobby, customer service counter, offices, and a staff break room/dining area. The furnishings to be provided include desks, tables, chairs, storage cabinets, filing cabinets, shelving, display cases, brochure rack, and white boards. See Exhibit 2, Furniture and Equipment Illustration Sheets.
- C. The San Bernardino Transit Center is currently under construction and will begin operations on September 8, 2015. Furniture must be installed no later than August 7, 2015.

2. FURNITURE AND FURNISHINGS

PART 1 - GENERAL REQUIREMENTS

A. SUMMARY

- 1) Furnish labor, materials, tools, equipment, and services for Furniture and Furnishings in accordance with provisions of Contract Documents.
- 2) Coordinate with work of other trades.

B. QUALITY ASSURANCE

- 1) Business and Institutional Furniture Manufacturers Association (BIFMA):

BIFMA Product Safety and Performance Standards and Guidelines
- 2) State of California Department of Consumer Affairs Bureau of Home Furnishings and Thermal Insulation:

TB 117-2013 Requirements, Test Procedure and Apparatus for Testing the Smolder Resistance of Materials Used in Upholstered Furniture (June 2013).
Document can be found using the following
link: http://www.bearhfti.ca.gov/about_us/tb117_2013.pdf.
- 3) Furniture and furnishings found to be not in accordance with specifications and approved submittals will be rejected. Contractor shall replace rejected furniture and furnishings at no cost to Omnitrans.
- 4) Although not indicated, Work includes providing supplementary or miscellaneous items, appurtenances and devices incidental to or necessary for a sound, secure, complete and functional installation.

- 5) Contractor is solely responsible for coordination of scope of Work for its own forces, and of Subcontractors and suppliers, and to complete Work, whether performed by the Contractor or a Subcontractor.
- 6) LEED Requirements:

The San Bernardino Transit Center is applying for a LEED Gold certification and requires furniture to be Green Guard certified or comply with LEED credit IEQ c4.5. See Exhibit 3 – LEED IEQ Credit 4.5: Low-Emitting Materials – Systems Furniture and Seating).

C. SUBMITTALS

- 1) Shop Drawings:

Provide Shop Drawing of desk furniture with all components for Omnitrans' approval.

- 2) Samples to be provided after award:

Sample of fabric and finishes selected. Clearly mark each sample with the following information:

- a. Furniture item code.
- b. Manufacturer.
- c. Finish and/or fabric code type.

- 3) Contract Closeout Information:

- a. Operations & Maintenance Literature.
- b. Warranty Documents.

D. PRODUCT DELIVERY, STORAGE AND HANDLING

- 1) Description:

Furnish labor, materials, tools, equipment, work and services for delivery, unloading, unpacking, assembly, staging and other handling of furniture and furnishings.

- 2) Job Conditions:

- a. Comply with applicable regulatory requirements.
- b. Accomplish work to avoid damages to Project premises and to furniture and furnishings.

3) Product Delivery:

- a. By manufacturer's normal means.
- b. In manufacturer's original labeled containers, or blanket wrapped.
- c. Contractor responsible for acceptance at Site.
- d. Schedule deliveries to avoid delaying work.
- e. Coordinate deliveries with Omnitrans' schedule.

4) Product handling, staging and installation - general:

- a. For unloading, receiving and other handling of furniture and furnishings, use methods to avoid damage to items and structure.
- b. Protect furniture and furnishings items from weather damage.
- c. Handle items to avoid contamination from other sources.
- d. Place only in authorized areas as determined by Omnitrans on Project site.
- e. Unpack items.
- f. Inspect items for damage and correctness as soon as possible after delivery. Reorder so as to avoid delays.
- g. Replace, or repair to new condition, each damaged item. Use of repaired items in Project is subject to approval by Omnitrans.
- h. After unpacking furniture and furnishings, protect from dust accumulation by covering items with non-staining dust covers until final placement.

5) General Clean Up:

Remove and dispose of excess material and debris off site.

PART 2 - PRODUCTS

A. ACCEPTABLE MANUFACTURERS

- 1) As indicated for each individual specification.

*Although this project is under \$100,000, Buy America applies as it is part of the larger San Bernardino Transit Center Project which is federally funded and exceeds \$100,000.

B. MATERIALS

- 1) Provide furniture and furnishings of each specialty type (as designated in the Furniture Illustration Sheets) by one manufacturer, except as may otherwise be indicated within specification.
- 2) Furniture Specifications:

See specification by item for individual specified items in Exhibit 2 - Furniture Illustration Sheets. Any discrepancies or questions shall be brought to the attention of Omnitrans.
- 3) Locking:
 - a. Furniture, whether or not indicated, shall be lockable.
 - b. Items located within the same work cubicle shall be keyed alike.

PART 3 - EXECUTION

A. INSPECTION

- 1) Examine Project site relative to adequacy of facilities available for delivery, unloading, unpacking, staging and other handling of items.
- 2) Do not start work until unsatisfactory conditions have been corrected.
- 3) Start of work constitutes acceptance of responsibility for performance.

B. ORDERING

- 1) Order materials required promptly after receipt of signed contract or letter of intent, and provide the Owner with dated copies of purchase orders at same time order has been placed.
- 2) Provide Omnitrans with dated copies of manufacturers acknowledgements of orders upon receipt.

C. INSTALLATION

- 1) Coordinate the receiving, handling, storage, delivery and installation with Omnitrans' schedule.
- 2) Contractor shall coordinate delivery and installation requirement dates with Omnitrans.
- 3) Follow manufacturer's printed instructions and drawings for additional assembly required on site for furniture and furnishings
- 4) Work shall be performed with skilled installers.

- 5) Test and adjust furniture and furnishing items for satisfactory operation.
- 6) Location requirements and furniture code items are indicated on Exhibit 1 - Furniture Floor Plan and Exhibit 2 – Furniture and Equipment Illustration Sheets.
- 7) Each individual item shall have a manufacturer's tag with model numbers.
- 8) Prior to ordering equipment:
 - a. Verify local conditions, corridor, elevators and stair clearances to allow installation of large items.
 - b. Items determined to be too large to negotiate and fit shall be manufactured in sections and assembled at site.
 - c. Areas should be field verified before ordering to make sure that furniture will fit.
 - d. Verify quantities on the drawings and report any discrepancies to Omnitrans.
- 9) Take precaution to protect the building from damage during installation.
- 10) Damage deemed the responsibility of the Contractor shall be repaired or replaced at no cost to Omnitrans.
- 11) Before installing tackboards, whiteboards, clocks, or any items attached to walls, verify exact locations with Omnitrans.

D. CLEANUP DURING INSTALLATION

- 1) Periodically and upon completion of installation, remove waste, dirt, wrappings, and excess materials, tools and equipment, and thoroughly clean the area.
- 2) Furniture and furnishings shall be left in show room condition and ready for use.

End Scope of Work

Exhibits:

1. Exhibit 1 - Furniture Floor Plan - Sheet No. F-101 dated 4-13-15 (One Page)
2. Exhibit 2 - Furniture Illustration Sheets (Twenty-Eight Pages)
3. Exhibit 3 - LEED IEQ Credit 4.5: Low-Emitting Materials – Systems Furniture and Seating (One Page)

- 1 ALL FURNITURE MUST COMPLY WITH THE BUY AMERICA ACT AND BE MADE IN AMERICA.
2. ALL FURNITURE MUST BE GREENGUARD CERTIFIED AND COMPLY WITH LEED CREDIT IEQc4.5, LOW EMITTING MATERIALS.
3. SEE FURNITURE LIST FOR ITEM DESCRIPTIONS
4. SEE FURNITURE ILLUSTRATION SHEETS FOR SALIENT FEATURES OF EACH ITEM..



CONTRACT NO. RFQ-MNT15-158	
DRAWING NO. F-101	
REVISION	SHEET NO. 1 OF 1
SCALE 1/8"=1'-0"	

Exhibit 2 - Furniture Illustration Sheets

ROOM NUMBER	ROOM NAME	FURNITURE	Type	Qty	Notes
100B	LOBBY/WAITING	LR-1	Literature Rack	1	Wall mounted, can hold magazines and pamphlets
		WR-1	Trash & Recycle Receptacle	1	One receptacle split in half, For public use, one by door 100B1
100C	LOBBY/WAITING	LR-1	Literature Rack	1	Wall mounted, can hold magazines and pamphlets
		DC-1	Display Case	1	Glass enclosed tackboard with piano hinge
		WR-1	Trash & Recycle Receptacle	2	One receptacle split in half, For public use, one by doors 100B3 & 100B4
101	SECURITY CENTER	CH-2	Guest Chair	1	All Poly
		MP-1	Mobile Pedestal	3	(1) box & (1) file drawer
102	BREAK ROOM	CH-3	Stack Chair	16	All Poly, armless
		TB-2	Break Room Tables	4	Laminate top
		TB-4	Computer Table	1	Small table for computer
		DC-1	Display Case	1	Glass enclosed tackboard with piano hinge
102B	OPERATIONS SUPERVISOR OFFICE	CH-1	Task Chair	1	Mesh back
		CG-1	L- shaped Desk	1	72" x 30" Single BBF ped Desk, 42" x 24" Single FF ped Return, hutch with tackboard, slat wall and task light
		KB-1	Keyboard Tray	1	
		CH-4	Guest Chair	2	With Arms
		SC-1	Storage Cabinets	1	5 high double door cabinet
		AC-1	Wire Management Loops	1	
103	CUSTOMER SERVICE	AC-2	Slat Wall Accessories	1	
		CH-1	Task Chair	2	Mesh back
		MP-1	Mobile Pedestal	2	(1) box & (1) file drawer
		SC-2	Storage Cabinet	2	3 high double door cabinet
103A	WORK ROOM	WT-1	Laminate top for Storage Cabinets	1	See plan for layout
		CH-1	Task Chair	1	Mesh back
		TB-1	Workroom Table	1	Laminate top
		LF-1	Lateral File	1	5 high lateral file
104B	MEN'S LOCKER ROOM	CH-5	Guest Chair with Casters	1	Can be like stack chair
106B	WOMEN'S LOCKER ROOM	CH-3	Stack Chair	1	All Poly, armless

Exhibit 2 - Furniture Illustration Sheets

ROOM NUMBER	ROOM NAME	FURNITURE	Type	Qty	Notes
107	SECURITY CENTER OFFICES	SC-1	Storage Cabinets	1	5 high double door cabinet
107A	SECURITY OFFICE	CH-1	Task chair	1	Mesh back
		CG-2	L- shaped Desk	1	72" x 30" Single BBF ped Desk, 42" x 24" Single FF ped Return, hutch with tackboard and task light
		KB-1	Keyboard Tray	1	
		SD-1	Pelican Drawer	1	Pelican drawer for personal storage
		CH-2	Guest Chair	2	Armless
		LF-1	Lateral File	1	5 high lateral file
		WB-1	White Board	1	
		AC-1	Wire Management Loops	1	
		AC-2	Slat Wall Accessories	1	
107B	SECURITY SUPERVISOR OFFICE	CH-1	Task chair	1	Mesh back
		CG-3	L- shaped Desk	1	72" x 30" Single BBF ped Desk, 48" x 24" Single FF ped Return
		KB-1	Keyboard Tray	1	
		SD-1	Pelican Drawer	1	
		CH-2	Guest Chair	2	Armless
		LF-1	Lateral File	1	5 high lateral file
		TB-3	Round Table	1	Laminate top
		WB-1	White Board	1	
		AC-1	Wire Management Loops	1	
107C	SECURITY INTERVIEW ROOM	CH-3	Stack Chair	2	All Poly
		TB-3	Round Table	1	Laminate top
112	HALLWAY	DC-1	Display Case	1	Glass enclosed tackboard with piano hinge
201	TELE/DATA ROOM	ST-1	Stool Task Chair	1	All Poly stool
		SC-1	Storage Cabinet	1	5 high double door cabinet

Exhibit 2 - Furniture Illustration Sheets

AC-1	ACCESSORIES	OFFICES
------	-------------	---------

x	Includes box of eight wire management loops
x	Manages and stores wires or cables through loops under casegoods tops
x	Install anywhere under top in recommended 18" intervals
x	Loop capacity: 19, 25-pair communications cables

1) Approved Equal: Kimball Office Perks Slatwall Accessories; Herman Miller cord cleats, model G1331

2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.

3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.

Basis of Design	
Manufacturer	Haworth
Series	Wire Management Loop
Dimensions	2 3/4" W x 4 1/2" H (installed)
Product #	JEH-8
Finishes	n/a
Upholstery	n/a

Haworth, Inc.
One Haworth Center
Holland, MI 49423-9576
616.393.3000
www.haworth.com

Quantity:	3
Locations:	102B, 107A, 107B



JEH-8

Refer to the above salient features for all required components.

Color and finish are representations only, please refer to actual manufacturers samples for true color and pattern.

Exhibit 2 - Furniture Illustration Sheets

AC-2	ACCESSORIES	OFFICES
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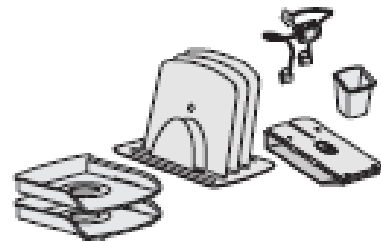
x	Includes gooseneck kit, paper sorter, two letter trays, phone shelf, and tool cup
x	Mounts on separately specified slat pad
x	Ships pre packaged

- 1) Approved Equal: Kuimball Office Perks Slatwall Accessories; Herman Miller Thrive portfolio work tools (paper trays, diagonal trays, phone shelf and tool cup)**
2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.
3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.

Basis of Design	
Manufacturer	Haworth
Series	Jump Stuff Work Tools
Dimensions	n/a
Product #	DPKS-S
Finishes	Transparent White
Upholstery	n/a

Haworth, Inc.
 One Haworth Center
 Holland, MI 49423-9576
 616.393.3000
 www.haworth.com

Quantity:	3
Locations:	102B, 107A, 107B



Refer to the above salient features for all required components.

Color and finish are representations only, please refer to actual manufacturers samples for true color and pattern.

Exhibit 2 - Furniture Illustration Sheets

CG-1	L-SHAPED DESK	OPERATIONS SUPERVISOR OFFICE
x	(1) Box/Box/File Pedestal desk 30" x 72" & (1) File/File Pedestal return 24" x 42"	
x	Upper Hutch with Tackboard, Task Light and Slat wall	
x	Laminate top, steel end panel, steel modesty panel, and steel pedestals	
x	Full extension steel ball bearing slides rated to 50 or 100 lbs based on drawer size	
x	All storage to be locking	
x	Laminate top has wood composite core w/recycled content, 3mm edge band on user and guest edge, and 1mm on sides	
x	Edge on guest side extends 6" beyond pedestal and end panel along the entire width of the	
x	Returns with glides provide 1" adjustment range	
x	Vertical storage includes steel top and interior shelf, laminate flipper door(s)	
x	72" wide storage units have two doors; standard with two grommets located in the back panel	
x	Tackboard attaches to a vertical storage unit; includes 1/2-width painted aluminum slat rail, 1/2-width fabric tackboard and mounting hardware.	
x	Task light includes 17" LED fixture, 15 watt power supply with 9' removable cord	
x	All steel components to be at least 20 gauge steel	

1) Approved Equals: Kimball Footprint metal storage components and casegoods; Herman Miller Meridian 5000 desking; Tu pedestals (metal, not laminate).

2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.

3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.

Basis of Design	
Manufacturer	Haworth
Series	X Series Casegood
Dimensions	Single Pedestal: 30" D x 72" W x 29" H Return: 24" D x 42" W x 29" H Vertical Storage: 14 3/8" D x 72" W x 34" H
Product #	Single Desk: JDXL-3072-J-AF-S-D-N Return: JDRL-2442-J-NA-N-B-S-S Pedestal (Desk): JPDH-24-S-J-L-D Pedestal (Return): JPDJ-24-S-J-R-D Vertical Storage: JUFL-3372-S-L Vertical Storage Tackboard: JCVS-1872 Lighting: LUTS-0017-19ULD5
Finishes	Laminate: River Cherry Paint: Chalk or MFG standard finishes
Upholstery	Tackboard: Hue Fabric: 6-ED Eddy or any MFG Grade A or B fabric

Haworth, Inc.
One Haworth Center
Holland, MI 49423-9576
616.393.3000
www.haworth.com

Quantity:	1
Locations:	102B



Refer to the above salient features for all required components.

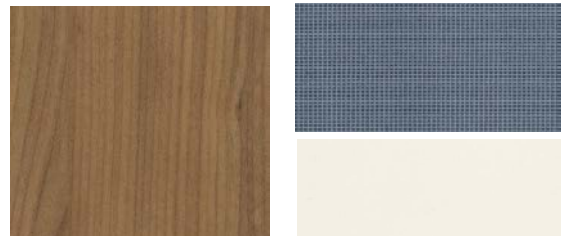


Exhibit 2 - Furniture Illustration Sheets

CG-2	L-SHAPED DESK	OFFICE
------	---------------	--------

x	(1) Box/Box/File Pedestal desk 30" x 72" & (1) File/File Pedestal return 24" x 42"
x	Upper Hutch with Tackboard, Task Light and Slat wall
x	Laminate top, steel end panel, steel modesty panel, and steel pedestals
x	Full extension steel ball bearing slides rated to 50 or 100 lbs based on drawer size
x	All storage to be locking
x	Laminate top has wood composite core w/recycled content, 3mm edge band on user and guest edge, and 1mm on sides
x	Edge on guest side extends 6" beyond pedestal and end panel along the entire width of the
x	Returns with glides provide 1" adjustment range
x	Vertical storage includes steel top and interior shelf, laminate flipper door(s)
x	72" wide storage units have two doors; standard with two grommets located in the back panel
x	Tackboard attaches to a vertical storage unit; includes 1/2-width painted aluminum slat rail, 1/2-width fabric tackboard and mounting hardware.
x	Task light includes 17" LED fixture, 15 watt power supply with 9' removable cord
x	All steel components to be at least 20 gauge steel

1) Approved Equals: Kimball Footprint metal storage components and casegoods; Herman Miller Meridian 5000 desking; Tu pedestals (metal, not laminate).

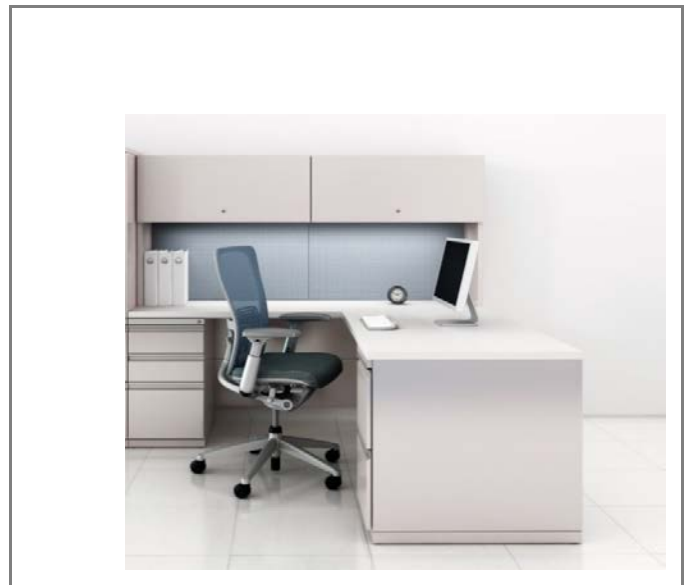
2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.

3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.

Basis of Design	
Manufacturer	Haworth
Series	X Series Casegood
Dimensions	Single Pedestal: 30" D x 72" W x 29" H Return: 24" D x 42" W x 29" H Vertical Storage: 14 3/8" D x 72" W x 34" H
Product #	Single Desk: JDXL-3072-J-FA-S-D-N Return: JDRL-2442-J-AN-N-B-S-S Pedestal (Desk): JPDH-24-S-J-R-D Pedestal (Return): JPDJ-24-S-J-L-D Vertical Storage: JUFL-3372-S-L Vertical Storage Tackboard: JCVS-1872 Lighting: LUTS-0017-19ULD5
Finishes	Laminate: River Cherry Paint: Chalk or MFG standard finishes
Upholstery	Tackboard: Hue Fabric: 6-ED Eddy or any MFG Grade A or B fabric

Haworth, Inc.
One Haworth Center
Holland, MI 49423-9576
616.393.3000
www.haworth.com

Quantity:	1
Locations:	107A



Refer to the above salient features for all required components.

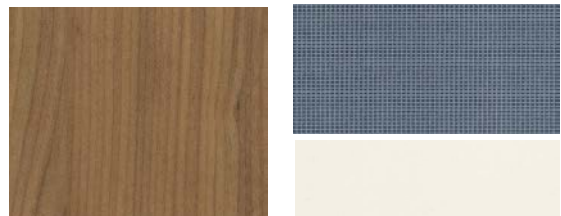


Exhibit 2 - Furniture Illustration Sheets

CG-3	L-SHAPED DESK	SUPERVISOR OFFICE
------	---------------	-------------------

x	(1) Box/Box/File Pedestal desk 30" x 72"
x	(1) File/File Pedestal return 24" x 48"
x	Full extension steel ball bearing slides rated to 50 or 100 lbs based on drawer size
x	All Storage Lockable
x	Laminate top, steel end panel, steel modesty panel, and steel pedestals
x	Laminate top has wood composite core w/recycled content, 3mm edge band on user and guest edge, and 1mm on sides
x	Edge on guest side extends 6" beyond pedestal and end panel along the entire width of the desk
x	All steel components to be at least 20 gauge steel
x	Returns with glides provide 1" adjustment range

- 1) Approved Equals: Kimball Footprint metal storage components and casegoods; Herman Miller Meridian
 2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.
 3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of

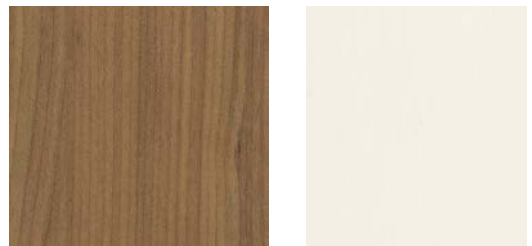
Basis of Design	
Manufacturer	Haworth
Series	X Series Casegood
Dimensions	Single Pedestal: 30" D x 72" W x 29" H Return: 24" D x 48" W x 29" H
Product #	Single Desk: JDXL-3072-J-FA-S-D-N Return: JDRL-2448-J-AN-N-B-S-S Pedestal (Desk): JPDH-24-S-J-R-D Pedestal (Return): JPDJ-24-S-J-L-D
Finishes	Laminate: River Cherry Paint: Chalk or MFG standard finishes
Upholstery	n/a

Haworth, Inc.
 One Haworth Center
 Holland, MI 49423-9576
 616.393.3000
www.haworth.com

Quantity:	1
Locations:	107B



Refer to the above salient features for all required components.



Color and finish are representations only, please refer to actual manufacturers samples for true color and pattern.

Exhibit 2 - Furniture Illustration Sheets

CH-1	TASK CHAIR	OFFICES
------	------------	---------

x	Mesh seat & back
x	Made with recycled content and can be recycled
x	Adjustable Lumbar support
x	Adjustable Seat height, tilt range and seat angle
x	3 shift, 12 year warranty
x	Adjustable seat depth
x	Adjustable arms that can adjust vertically, horizontally and pivot
x	Tested for at least 350 pounds
x	Castors for carpet or hard flooring

1) Approved Equal requests must meet these salient characteristics to be considered for substitution. Refer to Instructions to Bidders, Section H, Request for Clarification, Approved Equals, Exceptions.

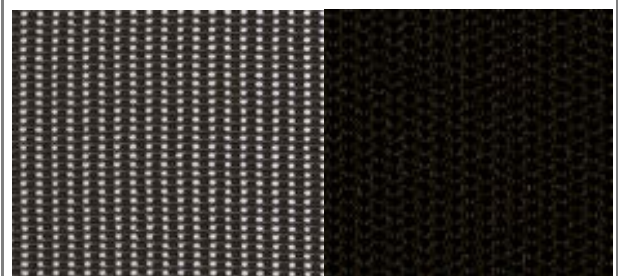
2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.

3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.

Basis of Design	
Manufacturer	Herman Miller
Series	Mirra 2 Work Chair
Dimensions	30"W x 18.5"D x 42.75" H max. Seat height 16" - 20.5"
Product #	MRF12-3-A-WAF-AJ-G1-C7
Finishes	G1 - Graphite Base & BK - Black Armpad
Upholstery	8M17 - Black Latitude Back Mesh & 1A703 - Graphite Aireweave Seat Mesh

Herman Miller
855 East Main Avenue, P.O. Box 302
Zeeland, MI 49464-0302 USA
Telephone: 616.654.3000
www.hermanmiller.com

Quantity:	6
Locations:	102B, 103, 103A, 107A, 107B



Color and finish are representations only, please refer to actual manufacturers samples for true color and pattern.

Exhibit 2 - Furniture Illustration Sheets

CH-2	ARMLESS GUEST CHAIR	SECURITY OFFICES
-------------	----------------------------	-------------------------

x	Tubular Steel Frame
x	Molded, perforated Poly back
x	4 Leg base with glides for Carpet
x	Mesh Seat
x	Armless
x	Stackable
x	Rated for 300 pounds

- 1) Approved Equal requests must meet these salient characteristics to be considered for substitution. Refer to Instructions to Bidders, Section H, Request for Clarification, Approved Equals, Exceptions.**
- 2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.**
- 3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.**

Basis of Design	
Manufacturer	Herman Miller
Series	Caper Stack Chair
Dimensions	21.5"W x 18.5"D x 32" H max. Seat height 18"
Product #	WC420-N-MS-G1-Y7-6V02
Finishes	MS - Metallic Silver Frame; G1 Graphite Back
Upholstery	6V02 - Silver Grey Flexnet Seat Mesh

Herman Miller
 855 East Main Avenue, P.O. Box 302
 Zeeland, MI 49464-0302 USA
 Telephone: 616.654.3000
www.hermanmiller.com

Quantity:	5
Locations:	101, 107A, 107B

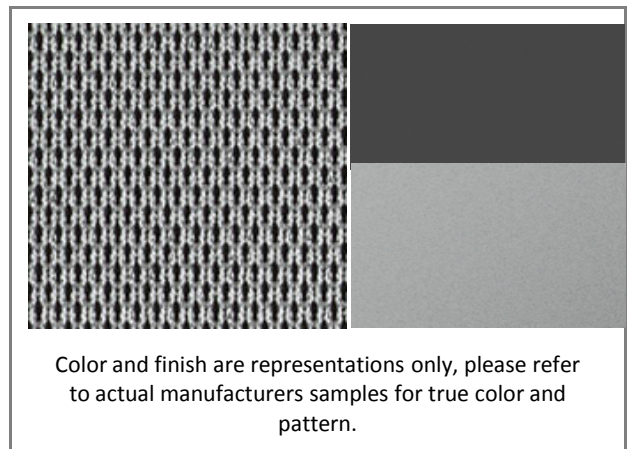


Exhibit 2 - Furniture Illustration Sheets

CH-3	STACK CHAIR	CAFÉ/ INTERVIEW ROOM
------	-------------	----------------------

x	All Poly - seat and back
x	Stackable
x	Armless
x	Solid Wireframe design
x	Built-in pull handle
x	250 lb. weight capacity
x	Lifetime warranty
x	Chrome frame

1) Approved Equal requests must meet these salient characteristics to be considered for substitution. Refer to Instructions to Bidders, Section H, Request for Clarification, Approved Equals, Exceptions.

2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.

3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.

Manufacturer	Sit On It
Series	OnCall Multi-Purpose/ Café Chair
Dimensions	Overall: 20"W x 22.5"D x 31"H
Product #	90-SC-A0-CG-SC15-AC4
Finishes	Plastic Lagoon (SC15); Chrome (SC) frame
Upholstery	n/a

Sit On it 6415 Katella Ave. Cypress, CA 90630 Tel: (888) 274-8664 Fax: (714) 995-4855 <div style="text-align: right;">www.sitonit.net</div>	
--	--

Quantity:	20
Locations:	102, 104B, 106B, 107C

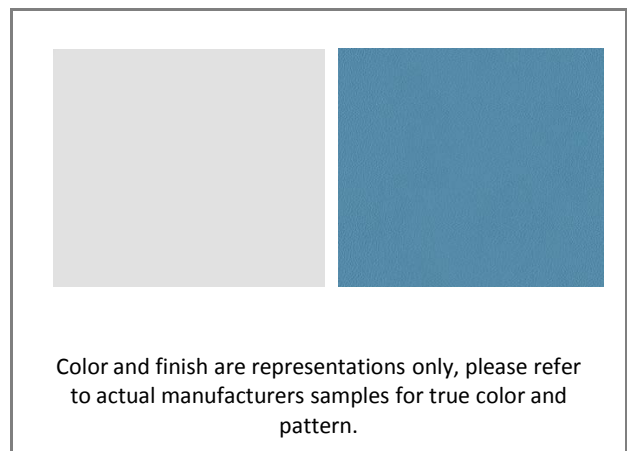
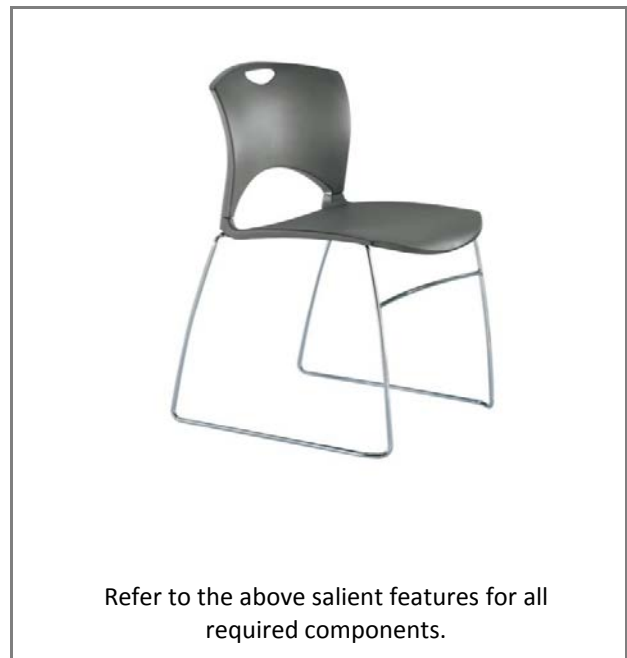


Exhibit 2 - Furniture Illustration Sheets

CH-4	GUEST CHAIR	OPERATION OFFICE
------	-------------	------------------

x	Tubular Steel Frame
x	Molded, perforated Poly back
x	4 Leg base with glides for Carpet
x	Mesh Seat
x	Fixed arms
x	Stackable
x	Rated for 300 pounds

1) Approved Equal requests must meet these salient characteristics to be considered for substitution. Refer to Instructions to Bidders, Section H, Request for Clarification, Approved Equals, Exceptions.

2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.

3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.

Basis of Design	
Manufacturer	Herman Miller
Series	Caper Stack Chair
Dimensions	21.5"W x 18.5"D x 32" H max. Seat height 18"
Product #	WC420-P-MS-G1-Y7-63-6V02
Finishes	MS - Metallic Silver Frame & G1 Graphite back; Arms/Cap: Fog
Upholstery	6V02 - Silver Grey Flexnet Seat Mesh

Herman Miller
855 East Main Avenue, P.O. Box 302
Zeeland, MI 49464-0302 USA
Telephone: 616.654.3000
www.hermanmiller.com

Quantity:	2
Locations:	102B

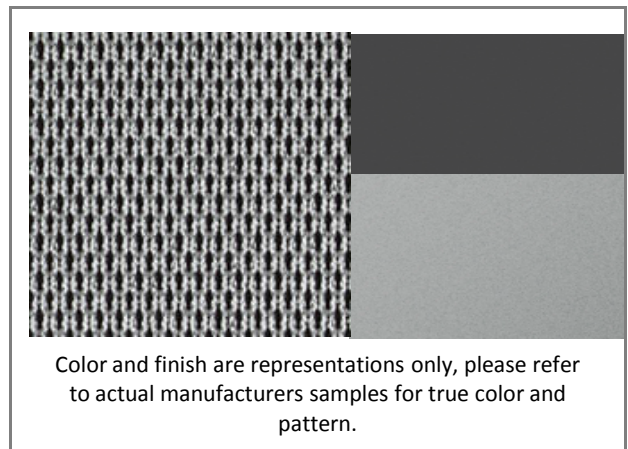
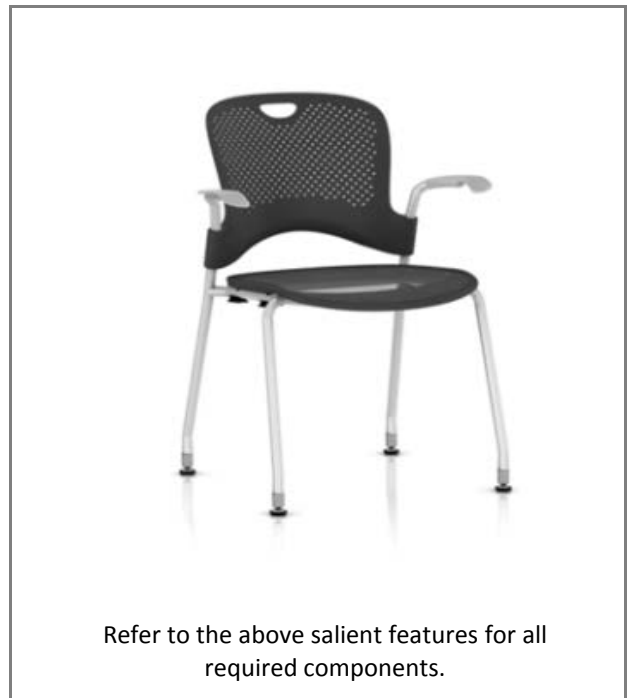


Exhibit 2 - Furniture Illustration Sheets

CH-5	GUEST CHAIR	WORKROOM
x	Tubular steel frame	
x	Molded, perforated Poly back	
x	4 legs based with casters	
x	Mesh Seat	
x	Fixed arms	
x	Stackable up-to 6 chairs high on the floor	
x	300 lb. weight capacity	

1) Approved Equal requests must meet these salient characteristics to be considered for substitution. Refer to Instructions to Bidders, Section H, Request for Clarification, Approved Equals, Exceptions.

2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.

3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.

Manufacturer	Herman Miller
Series	Caper Multi-Purpose
Dimensions	Overall Height: 32" ; Seat Height: 18" x W:24.25" x D: 18.5"
Product #	WC420-P-MS-G1-U5-63-6V02
Finishes	Frame: Metallic Silver Back: Graphite; Arms/Caps: Fog
Upholstery	6V02 Silver Grey Flexnet Seat Mesh

Herman Miller
855 East Main Avenue, P.O. Box 302
Zeeland, MI 49464-0302 USA
Telephone: 616.654.3000
www.hermanmiller.com



Quantity:	1
Locations:	103A

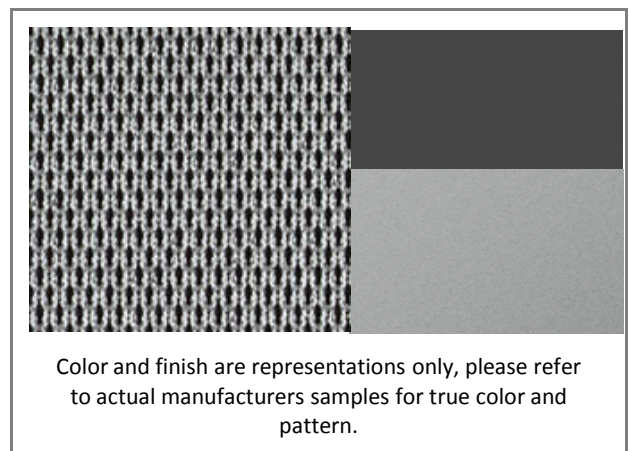


Exhibit 2 - Furniture Illustration Sheets

DC-1	DISPLAY CASE	LOBBY/WAITING AREA
-------------	---------------------	---------------------------

x	Tackable back panels
x	Constructed with 1" x 3" hollow tube perimeter
x	Cabinets have hinged door(s) with 3/16" tempered glass, continuous piano-type hinges and flat key tumbler locks
x	1-3/4" inside depth
x	Z-Bar hangers

1) Approved Equal requests must meet these salient characteristics to be considered for substitution. Refer to Instructions to Bidders, Section H, Request for Clarification, Approved Equals, Exceptions.

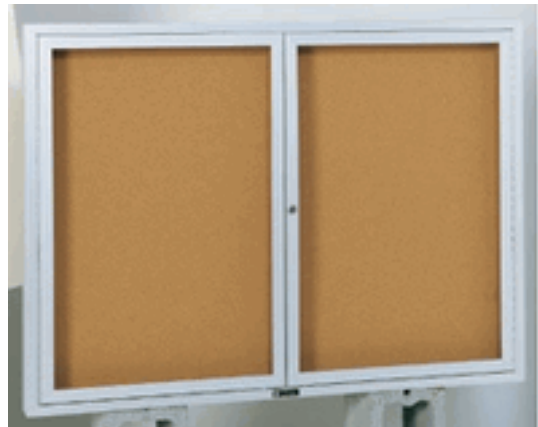
2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.

3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.

Basis of Design	
Manufacturer	Claridge
Series	Revere Series
Dimensions	3' x 3'
Product #	3820BCC
Finishes	Claridge Cork; Satin Anodized
Upholstery	n/a

Claridge
180 N Sherman Ave.
Corona, CA 92882
Phone: 951-734-6262
Fax: 951-734-6464
www.claridgeproducts.com

Quantity:	3
Locations:	100B, 100C, 102



Refer to the above salient features for all required components.

Color and finish are representations only, please refer to actual manufacturers samples for true color and pattern.

Exhibit 2 - Furniture Illustration Sheets

KB-1	KEYBOARD SYSTEM	OFFICES
------	-----------------	---------

x	Intuitive height adjustment that requires no locks, levers or controls
x	Dial-a-tilt positioning allows typing at most comfort; adjustment range 0° to -15°
x	Ultra -thin profile to provide maximum knee clearance
x	Exceeding BIFMA standard; design provides maximum strength and stability
x	Made primarily of powder coated steel
x	15 year 24/7 warranty
x	Keyboard platform made of 1/4" phenolic resin
x	Technogel palm supports

1) Approved Equal requests must meet these salient characteristics to be considered for substitution. Refer to Instructions to Bidders, Section H, Request for Clarification, Approved Equals, Exceptions.

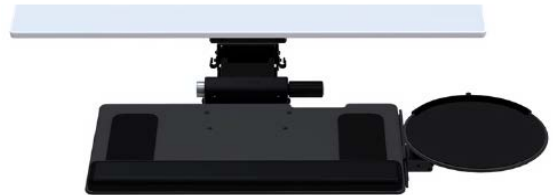
2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.

3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.

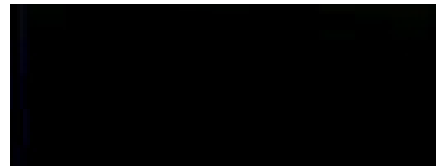
Basis of Design	
Manufacturer	HumanScale
Series	Keyboard System
Dimensions	Keyboard: 10.626" W x 19" L ; Mouse: 9" clip
Product #	Model: 6G90090G22
Finishes	Black mechanism
Upholstery	n/a

HumanScale
11 E. 26th Street
New York, NY 10010
T: +1 800 400 0625
E: info@humanscale.com
www.humanscale.com

Quantity:	3
Locations:	102B, 107A, 107B



Refer to the above salient features for all required components.



Color and finish are representations only, please refer to actual manufacturers samples for true color and pattern.

Exhibit 2 - Furniture Illustration Sheets

LF-1	LATERAL FILE	SECURITY OFFICES, WORK ROOM
------	--------------	-----------------------------

x	Five high, Receding door in top w/pull out shelf and four 12" drawers
x	File case to be made with 22 - gauge steel with box-in-box construction
x	Full extension steel ball bearing drawer slides rated to 180 lbs.
x	Standard with lock centered in front edge of top
x	Includes 12"(305mm)-high drawers with adjustable side-to-side hanging bars for letter, legal, EDP and international A4 and foolscap suspended file folders.
x	Drawer interiors and accessories are black finish color
x	Glides provide 1 1/2" adjustment range
x	Door locks simultaneously with drawers
x	J- Pull
x	Counterweight is recycled extruded material and includes hardware attachment

1) Approved Equal: Herman Miller Meridian

2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.

3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.

Basis of Design	
Manufacturer	Haworth
Series	X Series Lateral Files
Dimensions	63 1/2" H x 18" D x 35 7/8" W
Product #	JLRR-0536-SJ, JFW-36
Finishes	Painted Steel in TR-AK Chalk or Mfg. standard color
Upholstery	n/a

Haworth, Inc.
One Haworth Center
Holland, MI 49423-9576
616.393.3000
www.haworth.com

Quantity:	3
Locations:	103A, 107A, 107B



Refer to the above salient features for all required components.



Color and finish are representations only, please refer to actual manufacturers samples for true color and pattern.

Exhibit 2 - Furniture Illustration Sheets

LR-1	LITERATURE RACK	LOBBY / WAITING
-------------	------------------------	------------------------

x	3 High shelves
x	Modular concept allows side-by-side mounting of narrow and wide models of the same height
x	Front panels 7-1/2" height transparent polycarbonate
x	Steel Shell Finish and dividers
x	Keyhole mount

1) Approved Equal requests must meet these salient characteristics to be considered for substitution. Refer to Instructions to Bidders, Section H, Request for Clarification, Approved Equals, Exceptions.

2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.

3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.

Basis of Design	
Manufacturer	Peter Pepper
Series	Literature Rack
Dimensions	Overall: 35 1/4" w x 36 1/2" h x 2" d
Product #	Model: (1)663A, (3)663B (3)Divider: DV663
Finishes	Standard PPP Color
Upholstery	n/a

Peter Pepper Products, Inc. Susana Road PO Box 5769 Compton, CA 90224 P 800 496 0204 extension 7 www.peterpepper.com	17929 So.
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Quantity:	2
Locations:	100B, 100C



Refer to the above salient features for all required components.

Color and finish are representations only, please refer to actual manufacturers samples for true color and pattern.

Exhibit 2 - Furniture Illustration Sheets

MP-1	MOBILE PEDESTAL	CUSTOMER SERVICE/ SECURITY
------	-----------------	----------------------------

x	Locking steel pedestal with casters
x	Casters: Black; non-locking, 2 swivel (rear), 2 fixed (front)
x	Box drawers include one divider in each drawer and is rated to 50 lbs.
x	File drawers include one compressor in each drawer and is rated to 100 lbs.
x	Drawer interiors and accessories are black finish color
x	Lock engages a steel lock bar directly into steel drawer for security
x	Pedestals are constructed of a one-piece 20 gauge steel case which provides a clean, finished appearance with no overlapping seams
x	All drawers incorporate full extension telescoping, steel ball bearing slides providing smooth operation and complete access to drawer contents.

1) Approved Equals: Kimball Footprint components and casegoods; metal Tu pedestals.

2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.

3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.

Basis of Design	
Manufacturer	Haworth
Series	X Series Mobile Pedestal
Dimensions	15"W x 17", 23" or 29"D
Product #	JPMA-24-SJ
Finishes	Painted Steel in TR-AK Chalk or Mfg. standard color
Upholstery	n/a

Haworth, Inc.
One Haworth Center
Holland, MI 49423-9576
616.393.3000
www.haworth.com

Quantity:	5
Locations:	101, 103



Refer to the above salient features for all required components.



Color and finish are representations only, please refer to actual manufacturers samples for true color and pattern.

Exhibit 2 - Furniture Illustration Sheets

SC-1	STORAGE CABINETS	SECURITY CENTER / OFFICE
------	------------------	--------------------------

x	Case and top constructed of 22-gauge steel with a one-piece inner top and a patented box-in-box design for upper support and reduced case racking
x	Includes hinged doors with four shelves
x	Can accommodate 3 rows/shelves of 13 1/2"(343mm) binders
x	Hinged doors with full access hinges
x	Shelf and cabinet interiors are color matched to case
x	Shelves adjust in increments of 6" and to be made of at least 18 gauge steel
x	Standard with lock centered next to pull
x	Crescent Pulls

1) Approved Equal: Herman Miller Meridian

2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.

3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.

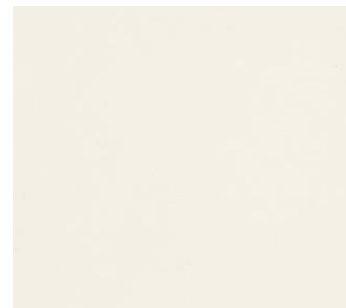
Basis of Design	
Manufacturer	Haworth
Series	X Series Storage Cabinets
Dimensions	63 1/2" H x 18 3/4" D x 35 7/8" W
Product #	JSPY-0563-S7
Finishes	Painted Steel in TR-AK Chalk or Mfg. standard color
Upholstery	n/a

Haworth, Inc.
One Haworth Center
Holland, MI 49423-9576
616.393.3000
www.haworth.com

Quantity:	2
Locations:	102B, 107



Refer to the above salient features for all required components.



Color and finish are representations only, please refer to actual manufacturers samples for true color and pattern.

Exhibit 2 - Furniture Illustration Sheets

SC-2	STORAGE CABINETS	CUSTOMER SERVICE
------	------------------	------------------

x	Case and top constructed of 22-gauge steel with a one-piece inner top and a patented box-in-box design for upper support and reduced case racking
x	Includes hinged doors with two shelves
x	Hinged doors with full access hinges
x	Shelf and cabinet interiors are color matched to case
x	Shelves adjust in increments of 6" and to be made of at least 18 gauge steel
x	Glides provide 1 1/2" adjustment range
x	Crescent pulls

1) Approved Equal: Herman Miller Meridian

2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.

3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.

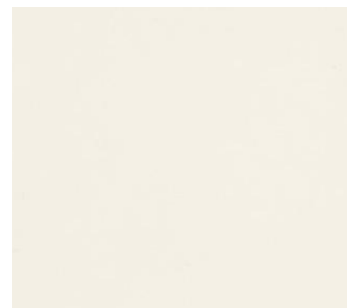
Basis of Design	
Manufacturer	Haworth
Series	X Series Storage Cabinets
Dimensions	39 1/2" h x 18 3/4" d x 35 7/8" w
Product #	JSPY-0336-S7
Finishes	Painted Steel in TR-AK Chalk or Mfg. standard color
Upholstery	n/a

Haworth, Inc.
One Haworth Center
Holland, MI 49423-9576
616.393.3000
www.haworth.com

Quantity:	2
Locations:	103



Refer to the above salient features for all required components.



Color and finish are representations only, please refer to actual manufacturers samples for true color and pattern.

Exhibit 2 - Furniture Illustration Sheets

SD-1	STORAGE DRAWER	SECURITY OFFICES
-------------	-----------------------	-------------------------

x	Fully concealed drawer slides
x	Spacious segmented tray section
x	Soft durable drawer front protects clothing and chair arms
x	Key core interchangeable locks compatible with most office furniture system
x	Full length suspension rails to protect against tampering with mountain screws
x	Mount under any 23 3/8" deep surface. Fits all furniture system
x	100% recyclable; ANSI-BIMFA rated 75 lbs at 18" extension

1) Approved Equal requests must meet these salient characteristics to be considered for substitution. Refer to Instructions to Bidders, Section H, Request for Clarification, Approved Equals, Exceptions.

2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.

3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.

Basis of Design	
Manufacturer	SpaceCo
Series	Pelican I Drawer
Dimensions	19 1/2" W x 23 3/8" D Front height: 2 1/4" Bin height: 10" Leg Room: 13"
Product #	PD0011-NFR-NLD
Finishes	Black - High Impact Polystyrene; Injection Molded PVC
Upholstery	n/a

SpaceCo
17650 E. 32nd Place, Ste 10A
Aurora, CO 80011
Call: (800) 840.8499
Fax: (303) 375.6644
www.spaceco.com

Quantity:	2
Locations:	107A, 107B



Refer to the above salient features for all required components.



Color and finish are representations only, please refer to actual manufacturers samples for true color and pattern.

Exhibit 2 - Furniture Illustration Sheets

ST-1	STOOL	TELE/DATA
------	-------	-----------

x	All Poly seat and back
x	Swivel Tilt mechanism
x	Extended Task Stool frame with footring
x	Armless
x	Built-in pull handle
x	250 lb. weight capacity
x	Lifetime warranty

1) Approved Equal requests must meet these salient characteristics to be considered for substitution. Refer to Instructions to Bidders, Section H, Request for Clarification, Approved Equals, Exceptions.

2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.

3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.

Manufacturer	Sit On It
Series	OnCall Task Chair
Dimensions	Overall: 26"W x 26"D x 41.5"H Seat Height: (B) 24-34"
Product #	T-90TB-S2-AO-C1-SC4-UC
Finishes	Plastic Black (SC1); Black frame
Upholstery	n/a

Sit On it
6415 Katella Ave.
Cypress, CA 90630
Tel: (888) 274-8664
Fax: (714) 995-4855
www.sitonit.net

Quantity:	1
Locations:	201

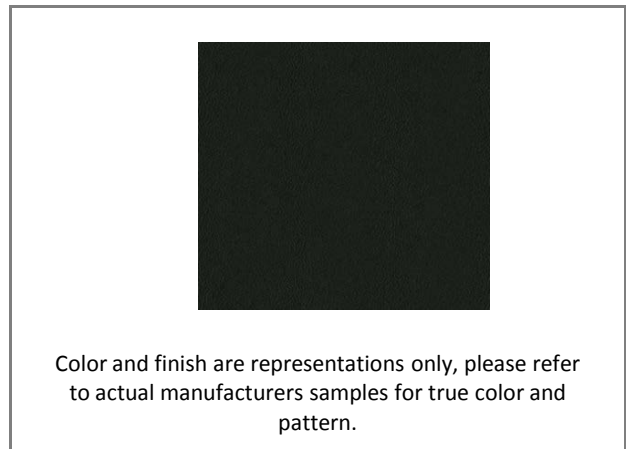


Exhibit 2 - Furniture Illustration Sheets

TB-1	WORKROOM TABLE	WORK ROOM
-------------	-----------------------	------------------

x	High Pressure Laminate Top
x	T-Leg metal base with Glides
x	Softened PVC Rim

1) Approved Equals: Herman Miller Everywhere

2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.

3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.

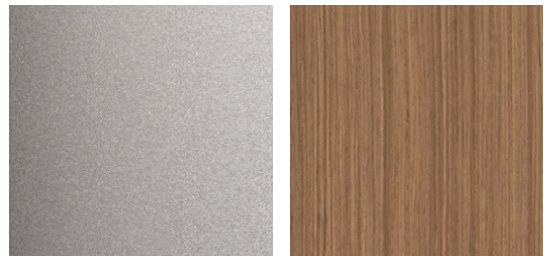
Basis of Design	
Manufacturer	Kimball
Series	Dock Training
Dimensions	30" D x 60" W
Product #	Table: 75K3060RT-L-P-X-STD; Leg: 75K2628CFTL-501-501
Finishes	Table: Laminate - Tuscan Walnut Legs: Paint - Platinum Metallic or MFG. standard finishes
Upholstery	n/a

Kimball
1600 Royal Street
Jasper, IN 47549
Phone: 800.482.1818
Fax: 812.482.8300
www.kimballoffice.com

Quantity:	1
Locations:	103A



Refer to the above salient features for all required components.



Color and finish are representations only, please refer to actual manufacturers samples for true color and pattern.

Exhibit 2 - Furniture Illustration Sheets

TB-2	BREAK ROOM TABLE	BREAK ROOM
------	------------------	------------

x	Laminate top
x	Metal X-Base with Glides
x	T-Mold Edge

- 1) Approved Equals: Kimball Office Dock; Herman Miller Everywhere
- 2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.
- 3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.

Manufacturer	Allsteel
Series	Merge Café
Dimensions	30" D x 30" W
Product #	Top: ALA30SQR, Base: ABX27FG
Finishes	Laminate: Sheer Mesh LT8B; Metal: Fossil P28 or MFG. standard finishes.
Upholstery	n/a

Allsteel
2210 Second Avenue
Muscatine, Iowa 52761
1-888-Allsteel
www.allsteeloffice.com

Quantity:	4
Locations:	102

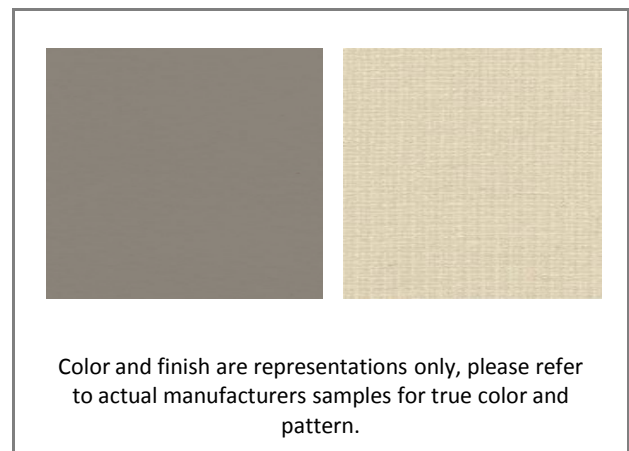


Exhibit 2 - Furniture Illustration Sheets

TB-3	OFFICE TABLE	OFFICE/ INTERVIEW ROOM
-------------	---------------------	-------------------------------

x	High Pressure Laminate Top
x	Metal Disc base
x	Softened PVC Rim

- 1) Approved Equals: Kimball Office Dock; Herman Miller Everywhere
- 2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.
- 3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.

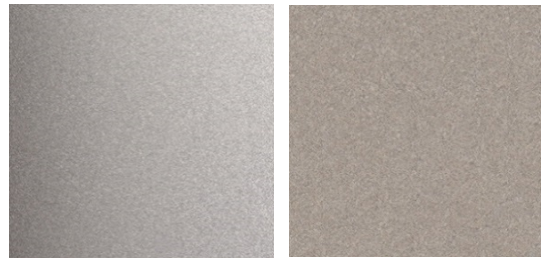
Basis of Design	
Manufacturer	Kimball
Series	Dock Multipurpose
Dimensions	Table: 30" Diameter Worksurface: 27" Diameter x 28" H
Product #	Table: 74K30RD-L-P-STD; Leg: 74K2728D-501
Finishes	Table: Laminate - Canyon Zephyr Legs: Paint - Platinum Metallic MFG. standard finishes
Upholstery	n/a

Kimball
1600 Royal Street
Jasper, IN 47549
Phone: 800.482.1818
Fax: 812.482.8300
www.kimballoffice.com

Quantity:	2
Locations:	107B, 107C



Refer to the above salient features for all required components.



Color and finish are representations only, please refer to actual manufacturers samples for true color and pattern.

Exhibit 2 - Furniture Illustration Sheets

TB-4	COMPUTER TABLE	BREAK ROOM
-------------	-----------------------	-------------------

x	Laminate top
x	Metal T-Base with Glides
x	T-Mold Edge

1) Approved Equals: Herman Miller Everywhere

2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.

3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.

Manufacturer	Allsteel
Series	Merge
Dimensions	24" D x 36" W
Product #	Top: ALA2436RE, Base: ABT20FG
Finishes	Laminate: Sheer Mesh LT8B; Metal: Fossil P28 MFG. standard finishes
Upholstery	n/a

Allsteel
2210 Second Avenue
Muscatine, Iowa 52761
1-888-Allsteel
www.allsteeloffice.com

Quantity:	1
Locations:	102

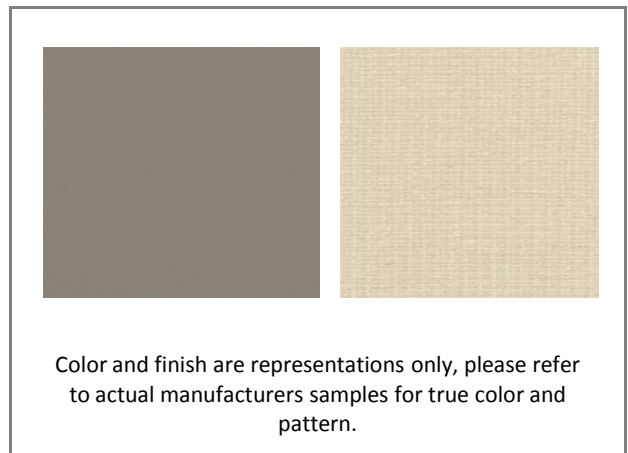
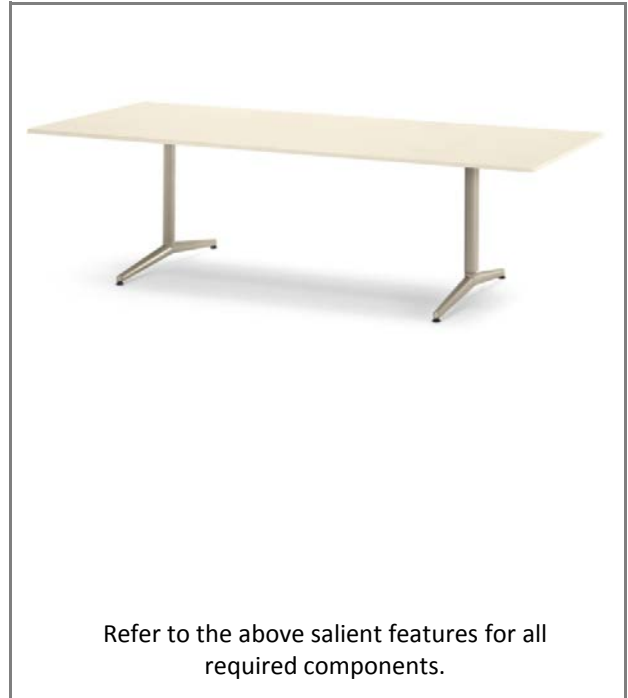


Exhibit 2 - Furniture Illustration Sheets

WB-1	WHITE BOARD	SECURITY OFFICES
-------------	--------------------	-------------------------

x	Frameless Magnetic Glass board
x	Acrylic Marker Holder
x	Back painted
x	Disc stand off installation

1) Approved Equal: Clarus Depth Glass board

2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.

3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.

Basis of Design	
Manufacturer	Krystal Glass Writing Boards
Series	
Dimensions	24" x 36"
Product #	KMB2436, SILFX & AHOLDR
Finishes	White back painted, Glass Silver mounting discs, Clear marker holder
Upholstery	n/a

Krystal™ Writing Boards, Inc.
1330 Lincoln Ave, Unit 7
Holbrook, NY 11741
Phone: 631-714-4700
www.krystalgwb.com

Quantity:	2
Locations:	107A, 107B



Color and finish are representations only, please refer to actual manufacturers samples for true color and pattern.

Exhibit 2 - Furniture Illustration Sheets

WR-1	WASTE RECEPTACLE	LOBBY / WAITING
------	------------------	-----------------

x	Panels made with heavy gauge stainless steel
x	Top and bottom rings made of corrosion-resistant solid cast aluminum; powdercoat finish
x	Hinged, solid cast aluminum lid for easy servicing
x	Clear litter or recycling graphics in three standard colors
x	Split-stream models with two separate 13-gallon polyethylene half-liners
x	Replaceable liners can be used with or without litter bags
x	Tapered rubber base serves as a mop splash guard
x	Freestanding and weights 77 lbs
x	High recycled content; fully recyclable

- 1) Approved Equal requests must meet these salient characteristics to be considered for substitution. Refer to Instructions to Bidders, Section H, Request for Clarification, Approved Equals, Exceptions.**
- 2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.**
- 3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.**

Manufacturer	Forms+Surfaces
Series	Orbit Litter & Recycling Receptacle
Dimensions	21.6" wide x 17.6" deep x 32.1" high
Product #	SLOB-213S
Finishes	Stainless Steel - Sandstone; Accent Panel: Ladder Perforation
Upholstery	n/a

Forms+Surfaces
6395 Cindy Lane
Carpinteria, CA 93013
Phone: (800) 451.0410
www.forms-surfaces.com

Quantity:	3
Locations:	100B, 100C

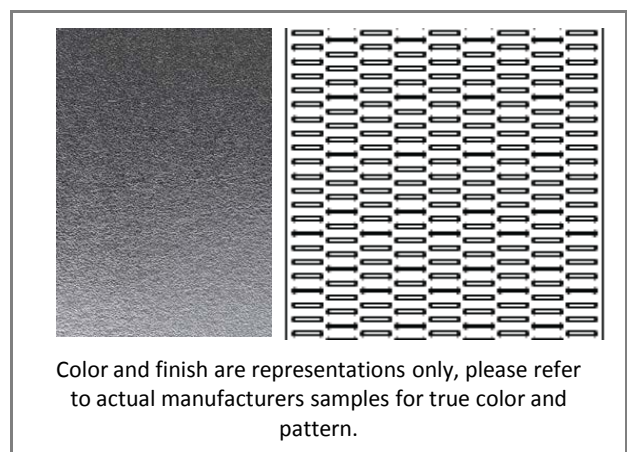


Exhibit 2 - Furniture Illustration Sheets

WT-1	WORKTOP	CUSTOMER SERVICE
------	---------	------------------

x	Includes top and attachment hardware
x	High pressure laminate surface with 3mm edge band on front and back edge and 1mm edge band on side

1) Approved Equal: Herman Miller Meridian

2) Must be Greenguard certified or comply with LEED Credit IEQc4.5, Low Emitting Materials.

3) Must meet Buy America Requirements per Section 337 of the Surface Transportation Assistance Act of 1987, and the regulations in 49 CFR 661, as amended.

Basis of Design	
Manufacturer	Haworth
Series	X Series Lateral File Tops
Dimensions	18 3/4" D x 72" W
Product #	JTCT-1972-L
Finishes	Laminate: River Cherry H-KD or MFG standard finishes
Upholstery	n/a

Haworth, Inc.
One Haworth Center
Holland, MI 49423-9576
616.393.3000
www.haworth.com

Quantity:	1
Locations:	103A



Refer to the above salient features for all required components.



Color and finish are representations only, please refer to actual manufacturers samples for true color and pattern.

EXHIBIT 3

IEQ Credit 4.5: Low-Emitting Materials—Systems Furniture and Seating

1 point

Intent

To reduce the quantity of indoor air contaminants that are odorous, irritating and/or harmful to the comfort and well-being of installers and occupants.

Requirements

All systems furniture¹ and seating² that was manufactured, refurbished or refinished within 1 year prior³ to occupancy must meet 1 of the options below.

OPTION 1

Furniture and seating are Greenguard Indoor Air Quality Certified.

OR

OPTION 2

Calculated indoor air concentrations that are less than or equal to those listed in Table 1 for furniture systems and seating determined by a procedure based on the EPA Environmental Technology Verification (ETV) Large Chamber Test Protocol for Measuring Emissions of VOCs and Aldehydes (September 1999) testing protocol conducted in an independent air quality testing laboratory.

OR

OPTION 3

Calculated indoor air concentrations that are less than or equal to those listed in Table 1 for furniture systems and seating determined by a procedure based on ANSI/BIFMA M7.1-2007 and ANSI/BIFMA X7.1-2007 testing protocol conducted in an independent third-party air quality testing laboratory.

The requirement in Section 5 of ANSI/BIFMA X7.1-2007 is waived for LEED purposes. Section 5 requires that laboratories used to perform the emissions testing and/or provide analytical results must be independently accredited to ISO/IEC 17025, “General requirements for the competence of testing and calibration laboratories.”

Table 1. Maximum Indoor Air Concentrations

Chemical Contaminant	Emission Limits Systems Furniture	Emission Limits Seating
TVOC	0.5 mg/m ³	0.25 mg/m ³
Formaldehyde	50 parts per billion	25 parts per billion
Total Aldehydes	100 parts per billion	50 parts per billion
4 – Phenylcyclohexene (4-PCH)	0.0065 mg/m ³	0.00325 mg/m ³

1 Systems furniture is defined as either a panel-based workstation comprised of modular interconnecting panels, hang-on components and drawer/filing components, or a freestanding grouping of furniture items and their components that have been designed to work in concert. Furniture other than systems furniture and task and guest chairs used with systems furniture is defined as occasional furniture and is excluded from the credit requirements.

2 Seating is defined as task and guest chairs used with systems furniture

3 Salvaged and used furniture that is more than 1-year-old at time of occupancy is excluded from the credit requirements.

ATTACHMENT C

GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1770, 1773 AND 1773.1 FOR COMMERCIAL BUILDING, HIGHWAY, HEAVY CONSTRUCTION AND DREDGING PROJECTS

CRAFT: #MODULAR FURNITURE INSTALLER (CARPENTER)

INTERIM DETERMINATION: SC-23-31-16-2013-1

ISSUE DATE: February 22, 2013

EXPIRATION DATE OF DETERMINATION: June 30, 2013* Effective until superseded by a new determination issued by the Director of Industrial Relations. Contact the Office of the Director – Research Unit at (415) 703-4774 for the new rates after ten days after the expiration date if no subsequent determination is issued.

LOCALITY: All Localities within Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, and Ventura Counties.

Classification (Journey person)	Basic Hourly Rate	Employer Payments					Straight-Time		Overtime Hourly Rate		
		Health and Welfare	Pension	Vacation/ Holiday ^a	Training	Other Payments	Hours	Total Hourly Rate	Daily 1 1/2X ^b	6 th Workday 1 1/2X ^b	7 th Workday/ Holiday 2X
MODULAR INSTALLER											
Installer	\$17.00	\$4.70	\$1.86	\$1.85	-	-	8	\$25.41	\$33.91	\$33.91	\$42.41
Lead Installer	\$19.00	\$4.70	\$1.86	\$1.85	-	-	8	\$27.41	\$36.91	\$36.91	\$46.41

Indicates an apprenticeable craft. The current apprentice wage rates are available on the Internet @ <http://www.dir.ca.gov/OPRL/PWAppWage/PWAppWageStart.asp>. To obtain any apprentice wage rates as of July 1, 2008 and prior to September 27, 2012, please contact the Division of Apprenticeship Standards or refer to the Division of Apprenticeship Standards' website at <http://www.dir.ca.gov/das/das.html>.

a) Includes an amount for Supplemental Dues.

b) Rate applies to the first 4 daily overtime hours and the first 12 hours on a sixth (6th) consecutive day. All other daily overtime is paid at the 7th Workday/Holiday rate.

RECOGNIZED HOLIDAYS: Holidays upon which the general prevailing hourly wage rate for Holiday work shall be paid, shall be all holidays in the collective bargaining agreement, applicable to the particular craft, classification, or type of worker employed on the project, which is on file with the Director of Industrial Relations. If the prevailing rate is not based on a collectively bargained rate, the holidays upon which the prevailing rate shall be paid shall be as provided in Section 6700 of the Government Code. You may obtain the holiday provisions for the current determinations on the Internet at <http://www.dir.ca.gov/OPRL/PWD>. Holiday provisions for current or superseded determinations may be obtained by contacting the Office of the Director – Research Unit at (415) 703-4774.

TRAVEL AND/OR SUBSISTENCE PAYMENT: In accordance with Labor Code Sections 1773.1 and 1773.9, contractors shall make travel and/or subsistence payments to each worker to execute the work. You may obtain the travel and/or subsistence provisions for the current determinations on the Internet at <http://www.dir.ca.gov/OPRL/PWD>. Travel and/or subsistence requirements for current or superseded determinations may be obtained by contacting the Office of the Director – Research Unit at (415) 703-4774.

ITEM # E11

DATE: June 3, 2015

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

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Jennifer Sims, Director of Procurement

SUBJECT: AUTHORIZE AWARD – SOLE SOURCE PURCHASE ORDER - E-SIGNS

FORM MOTION

Authorize the CEO/General Manager to award a sole source Purchase Order to B&C Transit, Inc., of Oakland, CA, for the one-time purchase of (ten) 10 E-Signs in the amount of \$82,894.07 including tax, plus a ten percent contingency of \$8,289.41, for a not-to-exceed amount of \$91,183.48

BACKGROUND

In addition to Omnitrans' website and Smart Phone Applications, Nextbus provides real-time passenger information to Omnitrans' riders at stations. The NextBus system requires the use of a controller, which is proprietary to B&C Transit, Inc. Nine of the E-signs will be used at the San Bernardino Transit Center, allowing one spare to be used when needed.

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.

FUNDING SOURCE

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

FUNDING	GRANT	YEAR	PROJECT NAME	INTERNAL ORDER	AMOUNT
FTA	CA90-Z112	FY14	SBTC-Bus Arrival System	D1422013F	\$72,946.78
STA	13-10-OMN-B	2010	SBTC-Bus Arrival System	D101B002S	\$18,236.70
Total					\$91,183.48

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

CONCLUSION

Approval of this sole source Purchase Order will ensure the E-signs are installed prior to commencement of operations at the San Bernardino Transit Center.

PSG:JMS:AA

ITEM # E12

DATE: June 3, 2015

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

THROUGH: P. Scott Graham, CEO/General Manager

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

**SUBJECT: LIQUEFIED NATURAL GAS (LNG) OPERATIONS
RISK ASSESSMENT**

FORM MOTION

Receive and file the final summary report on the Liquefied Natural Gas (LNG) Operations Risk Assessment.

This item was reviewed by the Operations and Safety Committee at its May 11, 2015, meeting, and recommended to the Board of Directors for receipt and file.

BACKGROUND

On October 1, 2014, the Board authorized the CEO/General Manager to award Contract SAS14-241 to Kazarians & Associates of Glendale, CA, in the amount of \$49,590, plus a 10% contingency of \$4,959; for a total not-to exceed amount of \$54,549, for the provision of an LNG Operations Risk Assessment Study.

The scope of work for the study includes three (3) major tasks:

Task 1: Municipal Codes Review: Identify Applicable Codes; Assess Compliance; Develop Findings; and Propose Mitigation Plans & Alternative for Findings.

Task 2: Earthquake Risk/Impact: Identify industry standards; Assess Compliance with Standards; Review seismic zone 4 and equate to Richter Scale (for magnitude); Propose Mitigation Plans & Alternatives or Findings.

Task 3: Risk Review: Define properties of natural gas, LNG/CNG; Identify Risks & Associated Hazards; Assess Physical/Structural Integrity of Underground Storage Tanks, Vault, and Dispensing System as it pertains to the unlikely event of a catastrophic explosion; Propose Mitigation Plans & Alternatives for Findings.

RESULTS OF THE LIQUEFIED NATURAL GAS (LNG) OPERATIONS RISK ASSESSMENT STUDY

Mr. Mardy Karzarians, of Mardy Kazarians, Kazarians & Associates, Inc., presented the results of the study to the Operations and Safety Committee on May 11, 2015.

The study concluded that we are in compliance with regulations. There are suggestions over and beyond what is required, which Omnitrans would consider implementing.

CONCLUSION

Staff recommends that the Board of Directors receive and file of the final summary report and slide presentation on the Liquefied Natural Gas (LNG) Operations Risk Assessment.

PSG: ME

Kazarrians & Associates, Inc.

LNG Operations Risk Assessment

Prepared for:

OmniTrans

San Bernardino, California



Prepared by:

Kazarrians & Associates, Inc.

Glendale, California 91210

May 2015

K&A Ref. No.5404.150506

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EXECUTIVE SUMMARY

OmniTrans operates a public transit bus refueling station in the City of San Bernardino that uses Liquefied Natural Gas (LNG) to fuel buses with Compressed Natural Gas (CNG). OmniTrans has selected Kazarians & Associates, Inc. to conduct an LNG Operations Risk Assessment with the specific objectives of:

- Ensure compliance with safety and regulatory requirements.
- Review of seismic aspects of the systems
- An assessment of the probability of an explosive atmosphere
- Identification of potential ignition sources
- A quantitative analysis of accident scenarios that includes small releases
- The probability and consequences of the explosion
- Study whether a hazardous or non-hazardous area exists at the fueling site.

The codes and standards that apply to LNG fueling stations are reviewed. A large number of standards were in effects when the original LNG storage, pumping and vaporization systems were designed and constructed. Since then, they have been consolidated into NFPA 52, which addresses LNG storage and fueling systems. In this study, the systems are reviewed against the current requirements and it is concluded that in general terms the systems comply with NFPA 52 requirements. There are only a few hardware related differences between the design and current NPFA 52 requirements. The balance of the differences relate to administrative issues that are partly met by current practices.

The seismic ruggedness of the systems is also reviewed in this study. The standard that was used at the time of design is compared with current standards and it is concluded that the margin of safety used in the original design well covers the new requirements. Additionally, a system walk-down was conducted. From that direct observation of the physical systems a few recommendations are proposed to improve seismic safety of the storage and handling systems.

A risk analysis is conducted to address OmniTrans objectives on the possibility of explosion, presence of ignition sources and consequences of a release. As part of the risk analysis, a set of potential release scenarios are identified. The hazard zone of each scenario is estimated, and for those that can extend outside the facility boundary, probability of occurrence is estimated. Scenarios are identified by using a well-established method that is commonly used in the chemicals processing and petroleum refining industries. The scenarios obtained from that analysis is further refined through the application of event trees where various potential conditions that can influence the hazard zone are included in the model. A wide range of scenarios are identified that includes small and large releases depending on the specific conditions of the event. For example, a flange failure is expected to lead to a small release, while hose break when unloading a truck is expected to lead to a large release.

Several computer programs were examined for estimating the shape and dimensions of potential hazard zones. *Phast* computer program was selected for this study since it offers the most sophisticated features that model release of LNG. Hazard zone computations take into account release conditions (e.g., liquid release and evaporation), formation of a gas cloud, and ignition leading to jet fire, pool fire and flash fire. The possibility of a severe storage tank explosion due to exposure to fire (also known as BLEVE in the industry) and vapor cloud explosion are examined, and it is concluded that neither pose a credible threat outside of this facility. However, several scenarios are concluded to have an impact outside the facility boundary through thermal radiation.

Scenario probabilities are also estimated in this study using failure probabilities and human error rates provided in various industry sources. The hazard zones are divided into two categories: (1) potential for injury and (2) severe injury with the possibility of fatality if the exposed person is unable to self-evacuate. The total probabilities of the two hazard categories are concluded to be once per 3,500 years and once per 47,000 years, respectively. These probabilities demonstrate that offsite impact of LNG operation at OmniTrans facility is a rare event, which is also corroborated by the industry experience. From a review of industry events since mid-1940s, none of the reported LNG release events has adversely affected public safety. These probabilities are deemed to be conservative given the uncertainties in the hazard zone modeling and that event probability sources tend to report probability values conservatively. From a study of scenario probabilities and hazard zones it is also concluded that 95% of potential injury scenarios may extend up to 880 feet from the facility boundary and 95% scenarios with the potential for severe injury may extend up to 175 feet from the facility boundary.

As a final note, it may be added that the objective of this study does not include a determination regarding acceptable levels of risk associated with LNG storage and handling systems. This study is an attempt to provide sufficient information to all stakeholders to allow them to arrive at their own conclusions. There is no regulatory requirement for OmniTrans to modify any of its current practices, and that this study did not discover any significant safety deficiencies. However, based on direct inspection of the physical systems, observations of LNG receiving operations, review of current OmniTrans practices and review of current codes and standards, suggestions for improvements are recommended for OmniTrans management's consideration.

1.0 INTRODUCTION AND SCOPE

OmniTrans operates a public transit bus refueling station in the City of San Bernardino that uses Liquefied Natural Gas (LNG) to fuel buses with Compressed Natural Gas (CNG). OmniTrans has selected Kazarians & Associates, Inc. to conduct an LNG Operations Risk Assessment with the specific objectives of:

- Assess the probability of an explosive atmosphere and identification of potential ignition sources at the East Valley storage and fueling site.
- Conduct a quantitative analysis that will provide a detailed study of accident scenarios due to small releases of gas from the facility, and the probability/consequences of the explosion as compared to other types of fuels.
- Study whether a hazardous or non-hazardous area exists at the fueling site.
- Review and assess the storage tanks and related operations to ensure compliance with safety and regulatory requirements.

To achieve the last objective, municipal codes and related standards are reviewed and the seismic aspects of the LNG facility are studied.

In this study, the various aspects of LNG storage and bus fueling operations are analyzed from the safety perspective. The design and established practices are compared with industry standards and practices. Recommendations are proposed to improve the systems and related operations based on analysts' experience and comparisons with industry practices.

The objective of this study does not include a determination regarding acceptable levels of risk associated with LNG storage and fueling operation. This report will attempt to provide sufficient information to all stakeholders to allow them to arrive at their own conclusions.

In this report, compliance with applicable standards is addressed first. Seismic aspects of the system are discussed next. The balance of this report is focused on the potential for an accidental release and extent of hazard zones.

2.0 PHYSICAL PROPERTIES OF LNG AND CNG

Natural gas is a term used to refer to a mixture of hydrocarbon components that is typically obtained from oil-wells. Greater than 95% of it is methane. Minor components of natural gas include ethane, propane, butane, pentane and nitrogen. Therefore, natural gas properties are very close to those of methane, which are used in this study where data for natural gas was not available.

The boiling point of natural gas is approximately -259°F (-161°C). In order to maintain natural gas as Liquefied Natural Gas (LNG), it must be subjected to either very high pressure or very low temperature. At OmniTrans, LNG is maintained at low temperature in insulated storage vessels.

When released into the atmosphere, LNG vaporizes rapidly by absorbing heat from its surroundings. Vaporized LNG forms a very cold vapor cloud of natural gas that mixes with air as wind blows through it. The density of cold natural gas vapor is greater than that of air. Therefore, in the initial stages of LNG release, its vapors stay close to ground. However, as it absorbs heat its density decreases reaching its ambient level which is much lighter than air. At this stage, natural gas rises and dissipates into higher elevations. At ambient temperature, liquid natural gas will expand up to 600 times its initial volume upon vaporization.

Natural gas is a flammable substance that when released into the atmosphere it has the potential to form a combustible vapor cloud. If its concentration in the air is within flammable range (i.e., 5% to 15% by volume for methane), it may combust in the presence of an ignition sources. Otherwise, the mixture in air is either too rich [i.e., above upper flammable limit (UFL), 15%] or too lean [i.e., below lower flammable limit (LFL), 5%].

In addition to fire hazard, the low boiling point of LNG presents safety concerns of exposure to a cryogenic material. Also, rapid vaporization of LNG can displace air and pose asphyxiation hazard.

Properties of LNG are further discussed in Appendix A.

3.0 SYSTEMS INCLUDED IN THE ANALYSIS

This study addresses the following elements of the LNG storage and handling related systems and operations:

- Storage tanks and all the equipment located within the Storage Vault
- Vaporizers
- Buffer tanks and related valving and controls
- Fuel dispensers
- LNG truck unloading operation

LNG truck unloading operation includes truck movement within the site. Fuel dispensers are included for the potential for inadvertent relief valve opening and dispensing hose failure. Bus fueling operation (e.g., improper hose connection to a bus), however, is not included in this study.

4.0 COMPLIANCE WITH CURRENT STANDARDS

The LNG storage and handling systems were originally designed in 2001 and construction was completed by 2002. Since that time, the bus fueling section of the systems has been modified. This includes relocation of the buffer tanks and control valves, relocation of fuel dispensing stations, and the addition of a third fuel dispenser. The design of the modifications was completed in 2012 and construction will be completed in 2015.

The design of all system components and related structures complies with the codes and standards in effect at the time of design (i.e., 2001 for LNG storage tanks, pumps and vaporizer and 2012 for the fuel dispensers.). A variance was issued for storage tank placement. The codes in effect in 2002 required that the LNG storage tanks be installed outside. The regulation also stated that the Storage Tanks must be at least 50 feet from the nearest property. Due to the close proximity of the Storage Tanks to the fence line, OmniTrans was granted a variance from the Occupational Safety and Health Standards Board, allowing the Storage Tanks to be located in their current position under the condition that they be enclosed in a containment vault [OSHSB, 2005].

At the time of the original system design a large number of codes and standards had to be met. Under current conditions, the primary code to which an LNG fueling system must comply with is NFPA 52 that has brought together under one document standards that apply to the design, installation, operation, and maintenance of compressed natural gas (CNG) and liquid natural gas (LNG) to CNG facilities, in which LNG is stored in ASME containers of 70,000 gallons or less. Applicable portions of the following publications are referenced within NFPA 52, and they have therefore been implicitly incorporated as a part of this evaluation:

National Fire Protection Association

- NFPA 30A, Code for Motor Fuel Dispensing Facilities and Repair Garages, 2012 Edition
- NFPA 37, Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines 2010 edition
- NFPA 51B, Standard for Fire prevention During Welding, Cutting, and Other Hot Work, 2009 edition
- NFPA 54, National Fuel Gas Code, 2012 edition
- NFPA 59A, Production, Storage, and Handling of Liquefied Natural Gas (LNG), 2013 edition
- NFPA 70, “National Electrical Code”, 2011 Edition
- NFPA 80, Standard for Fire Doors and Other Opening Protectives, 2013 edition
- NFPA 259, Standard Test Method for Potential Heat of Building Materials, 2013 edition

- NFPA 496, Standard for Purged and Pressurized Enclosures for Electrical Equipment, 2013 edition.
- NFPA-5000, Building Construction and Safety Code, 2012 edition

American Petroleum Institute

- API 620, Design and Construction of Large, Welded, Low Pressure Storage Tanks, 1996

American Society of Civil Engineers

- ASCE Minimum Design Loads for Buildings and Other Structures, 2010

American Society of Mechanical Engineers

- ANSI/ASME B31.3, Process Piping, 2004
- ASME Boiler and pressure Vessel Code, Section VIII, X, 2004

ASTM International

- ASTM A 47/A47M, Standard Specification for Ferritic Malleable Iron Casting, 1999 (2009).

American National Standards Institute (ANSI)

- ANSI/NGV 1, Standard for Compressed Natural Gas Vehicle Fueling Connections Devices
- ANSI/NGV 4.1, NGV Dispensing Systems
- ANSI/NGV 4.2, Hoses for Natural Gas Vehicles and Dispensing Systems
- ANSI/NGV 4.4, Breakaway Devices for Natural Gas Dispensing Hoses and Systems
- ANSI/NGV 4.6, Manually Operated Valves for Natural Gas Dispensing Systems
- ANSI/NGV 4.7, Automatic Pressure Operated Valves for Natural Gas Dispensing Systems

American Society of Mechanical Engineers (ASME)

- Boiler and Pressure Vessel (B&PV) Code)
 - Section V - Nondestructive Examination
 - Section VII, Division 1 - Pressure Vessels
 - Section IX - Welding and Brazing Qualifications
- ASME A13.1, Scheme for the Identification of Piping Systems
- ASME B16.25, Buttwelding Ends

- ASME B31.3, Process Piping

American Society for Nondestructive Testing (ASNT)

- SNT-TC-1A Recommended Practice

American Welding Society (AWS)

- A5.1 Covered Carbon Steel Arc Welding Electrodes
- A5.5 Low Alloy Steel Covered Arc Welding Electrodes

In addition to combining the different standards, NFPA 52 includes several revisions that have been made since 2006. The 2006 edition of NFPA 52 was a complete revision, which incorporated NFPA 57 “LNG Vehicular Fuel Systems Code” into NFPA 52. Additionally, the scope of the standard was expanded to include hydrogen, and new chapters were added that addressed general gaseous hydrogen requirements and equipment qualifications; service and maintenance of gaseous hydrogen engine fuel systems; gaseous hydrogen compression, gas processing, storage, and dispensing systems; and liquefied hydrogen fueling facilities.

The 2010 edition of NFPA 52 includes revisions that mostly address hydrogen related issues and improves the coordination between this standard and NFPA 55.

In the 2013 revision of NFPA 52 hydrogen systems related requirements are removed and transferred to NFPA 2. A chapter on general fueling requirements was added to NFPA 52, and changes were made to the onboard gas detection requirements for LNG-fueled vehicles. The installation requirements for ASME Tanks for LNG were updated to coordinate with NFPA 59A.

In this study, the design and operation of LNG storage and handling systems are reviewed against NFPA 52 requirements to gain an understanding of the differences between systems design and current requirements. Appendix B provides a list of the relevant requirements of that standard along with a statement addressing level of compliance. Overall, with the exception of one clause requiring a deflector, system design is in compliance with current NFPA 52 requirements. According to Clause 10.2.1.8 of NFPA 52 deflectors should be installed where there is a possibility of horizontal accidental release of LNG. All other non-compliant clauses address administrative requirements. For example, clause 7.3.13.1. requires a periodic hazard analysis of the systems. Recommendations are provided to OmniTrans to consider incorporating these requirements in their current operations and safety procedures and policies. These recommendation are further discussed in the conclusions section of this report.

5.0 SEISMIC VULNERABILITY

The seismic vulnerability review focused on the following issues:

- Compliance with current applicable standards
- Seismic zone 4 review and its relationship with the Richter Scale
- Potential mitigation plans and alternatives

Industry Standards

The design standards for the LNG storage and handling systems is comparable to standards applicable to the chemical plants and refineries. The seismic design standards for these type of facilities are currently based on the International Building Code [IBC, 2012], California Building Code [CBC, 2013] and ASCE/SEI 7-10 Minimum Design Loads for Building and Other Structures [ASCE, 2013]. These standards and building codes replaced the Uniform Building Code standards. Based on the documentation provided, the standards used in the design of LNG storage and handling systems was based on Uniform Building Code 1997 [UBC, 1997] which was the building code in force at the time of the design of the facility.

Compliance with Current Standards

The available plans and documents for the existing Storage Vault and LNG storage tanks and piping were reviewed for compliance with various standards. The following notes summarize the observations and findings:

- The existing LNG storage tanks and piping and the Storage Vault are designed based on [UBC, 1997]. The bus fueling (dispensers) and maintenance facility and the building that houses these systems are designed later and are based on [CBC, 2010] building and the codes in force at the time of design.
- The Storage Vault and related equipment and piping are designed based on the requirements of Seismic Zone 4, which required the design to consider a minimum acceleration of 0.6006g. This acceleration level is greater than that of current requirements based on [CBC 2013] and [ASCE, 2013] for OmniTrans Facility location. Therefore, the original design used much stricter conditions than what is required today.

Seismic Hazard

A seismic hazard analysis typically involves the consideration of all ground faults that may affect the facility. An analysis had been done on soil and geology aspects of the site ([Byerly, 1989] and [Ninyo, 1997]) that addresses seismicity of the site. These reports conclude that the underlying soil of OmniTrans facility is suitable for the buildings and the facility currently constructed at this site. Underground water was not detected in the test borings (max depth 51.5ft). Therefore, the site is not susceptible to liquefaction and seismically induced settlement.

Ground faults that traverse near the facility are identified and analyzed for effective peak horizontal accelerations in [Ninyo, 1997] and [Byerly, 1989]. Effective peak horizontal

accelerations is the bases for building codes used by structural engineers for design purposes. According to [Ninyo, 1997] and [Byerly, 1989], San Jacinto Fault, which is located less than one mile from the facility, may produce the largest, 0.47g, effective peak horizontal acceleration at OmniTrans Facility. Since, in the original design 0.6006g and in the current additions 0.484g have been used, the design of LNG storage and handling systems is expected to withstand seismic activities generated by nearby faults.

Potential Mitigation Plans and Alternatives

Based on a site observation walkthrough, the following should be studied further:

- Anchorage and foundation of the Vaporizer to verify its seismic design basis
- The LNG pipe connection to the northerly site property line retaining and fence wall to verify that pipe connections to the wall meet seismic design conditions.
- The northerly site property line retaining wall and fence wall to verify its seismic design basis
- The two LNG pipe penetrations through the northerly wall of the Storage Vault and their connections to the Vaporizers to verify that the pipe can flex under seismic load applied to the building and the Vaporizers
- Clearance between the emergency exit stair landing and the LNG storage tanks to verify that landing structure would not collide with the nearest LNG Storage Tank outer shell.

6.0 OVERALL APPROACH FOR ASSESSEING LNG OPERATIONS RISK

The overall analysis approach is described in this section. While this section describes the general approach used in this study, the specifics of each part of the approach are provided in the sections that follow.

Risk is defined as the answer to the following three questions [CCPS, 2008]:

- What can go wrong?
- How likely is it?
- What would be the consequences?

A collection of the answers to these three questions can characterize the risk of a system or operation. The information obtained can be manipulated in many different ways to obtain metrics most useful to the users of the study. In this study, release scenarios that may impact the public outside facility boundaries are identified, and their likelihoods are estimated.

For the purposes of this study, the first question of risk analysis process (i.e., what can go wrong) is focused on potential release scenarios of LNG or CNG. To identify these scenarios, a systematic method, guideword-style Hazard and Operability (HAZOP), is employed to minimize the chance that an important scenario is missed. This methodology is commonly used in the chemicals processing and petroleum refining industries to evaluate safety risk. Additionally, industry events relevant to LNG storage and handling were reviewed to verify that the identified release scenarios capture those incidents.

The scenarios identified by HAZOP methodology are further refined by applying the Event Tree Analysis (ETA) methodology, where additional conditions are introduced. For example, time of ignition affects the outcome of the event. If an ignition source is present close to the release point, the event may be limited to a pool fire. If the ignition source is located further down-wind, there could be a potential for flash fire.

The consequences of each scenario are estimated in terms of hazard zones. Hazard zone is defined as the specific area on the ground where a person may receive harm. Harm is defined as exposure of the public outside of facility boundaries to fire or explosion conditions. Exposure to extreme cold caused by an LNG spill or asphyxiation because of displacement of air are only possible within a very short distance of an LNG spill. Therefore, these two phenomena are not addressed as concerns for the public outside the facility. These two phenomena present safety concerns to OmniTrans personnel only, and are addressed through their internal safety programs.

The chain of events following a release leading up to a harmful condition on the ground may involve multitudes of complex phenomena. They may involve such phenomena as LNG release from a narrow opening, liquid evaporation, dispersion of gas cloud, formation of a flammable mixture and heat flux generated by a fire after ignition. Depending on the type of phenomena, different computational methods are employed to estimate the parameters of these conditions with final goal of estimating the shape and extent of ensuing hazard zone.

The likelihood or probability of each scenario depends on the initiating event of the scenario, and other conditions that may need to be in place for a certain hazard condition to be realized. For example, hose failure is an initiating condition that would cause spill of LNG on the ground outside the Storage Vault. The quantity of LNG spilled will depend on the time of emergency valve shutoff activated by the truck driver. Probability values of each event are estimated using industry and other relevant sources.

7.0 RELEASE SCENARIO ANALYSIS

7.1 Selection and Basis of the Scenario Identification Methodology

The guideword-style Hazard and Operability (HAZOP) methodology [CCPS, 2008] augmented with the “what-if” questioning process is employed to identify potential release scenarios¹. This methodology was developed in the chemicals process industry and is now extensively used in process and refining industries to analyze safety risk of various systems and operations and is widely accepted by regulatory agencies. The methodology provides a systematic approach necessary to ensure that almost all important scenarios identified.

This method employs a pre-selected set of parameters and guidewords to facilitate a thought process for identifying potentially hazardous situations or operating problems. Automatic and manual operations (e.g., receiving LNG) of the system are analyzed using the HAZOP study approach. Special conditions and outside influences on the system are analyzed using the “what-if” approach.

The HAZOP methodology is based on the premise that each component or segment of a system has a specific design intent, and a deviation from this intent may lead to a hazardous condition. For example, an LNG Storage Tank is designed to contain a certain amount of fluid. Maintaining the liquid level within safe limits is a design intent of operating the vessel. If a vessel is overfilled (a deviation from the design intent) the pressure in the system may increase and a relief valve may lift to reduce the pressure. If the vessel level drops below a certain level (also a deviation), pump cavitation and operational problems may be experienced.

7.2 Summary of HAZOP Methodology

In a HAZOP study, the system is divided into nodes (segments, or process sections). The nodes may be selected based on the conditions of the effluents in the system. Typically, nodes are selected based on changes in the physical conditions of the effluent, that is, changes in pressure, temperature, composition, etc. Vessels, heat exchangers and pumping devices are typical points around which a node may be selected.

For each node, the design intent is specified. Based on the design intent, the parameters that describe various conditions of the node are identified. Parameters may include temperature, pressure, flow, composition, etc. Deviations are identified from the application of a standard set of guidewords to the parameters. For example, if the guideword “less” is applied to the parameter “level,” the deviation “lower level” is achieved. Table 1 shows the standard set of guidewords [CCPS, 2008].

¹ Generally, HAZOP studies in the process industry is conducted with the participation of a team familiar with the design and operation of the system. In this study, the analysis was conducted by the engineers at Kazarians & Associates, Inc. A similar study that had been conducted by Loss Control Associates, Inc. [Loss Control, 2001] was consulted. Kazarians analysis team also consulted with an engineer from NorthStar Engineering, who was involved in the construction of the system and continues to provide services. Additionally, Kazarians analysis team observed two LNG delivery operations.

Table 1 – Guide-words Used in the Identification of Parameter Deviations

Guide-word	Description	Example
No	Negation of the design intent	No flow
Less	Quantitative decrease	Low level
More	Quantitative increase	High pressure
Part of	Qualitative decrease	Part of step left out
As well as	Qualitative increase	Additional steps included
Reverse	Logical Opposite of the intent	Backflow
Other than	Complete substitution	Wrong material

In the course of this HAZOP study, every element of the system is reviewed and the appropriate design parameters identified. The list below gives a standard set of deviations used in this HAZOP study.

1. Low/No Flow
2. More Flow
3. Other than Flow (typically covers breaches in piping or vessels)
4. Misdirected Flow (typically covers inadvertent opening of valves because of human error)
5. Reverse Flow
6. High Level
7. Low level
8. High Pressure
9. Low Pressure
10. High Temperature
11. Low Temperature
12. Contaminants
13. What-If

In a HAZOP study, the applicable parameters and possibility of deviations are investigated for each node. If a cause can be identified for a deviation, the consequences of occurrence of that cause are established. To minimize the effort needed for a complete analysis of the system and to minimize double accounting of different scenarios, only those causes that can occur within the boundaries of a node are considered. Identified causes should be in terms of a well-defined event, equipment failure or human action (e.g., a normally closed valve is inadvertently opened, a fire occurs near a storage tank and a pump fails to start).

Consequences are the result of the deviation cause and may be expressed in terms of system condition, release of materials, effects on other equipment, deterioration of equipment, adverse effects on workers and the public, etc. When expressing the consequences of a deviation, no limits are imposed in terms of location and area. Consequence discussions are carried out until all possible adverse conditions are identified.

The possibility of occurrence of the cause of a deviation and severity of the consequences may be mitigated by existing system features, plant characteristics, and administrative controls (collectively referred to as safeguards). Existing safeguards are noted in the next step of HAZOP discussions. Safeguards include such features as relief devices, gas detectors, maintenance practices and operator training.

7.3 PHA Study Process and Results

Documents Reviewed

The following documents are used in the HAZOP study to define the system:

- “OmniTrans – San Bernardino, LCNG Transit Station, P&ID”, Drawing 21003-20, Revision B, December 2001.
- “OmniTrans – San Bernardino, LCNG Transit Station, P&ID”, Drawing 21003-20A, Revision B, December 2001.
- “OmniTrans – San Bernardino, LCNG Transit Station, P&ID”, Drawing 21003-21, Revision B, December 2001.
- “OmniTrans – San Bernardino, LCNG Transit Station, P&ID”, Drawing 21003-22, Revision B, December 2001.
- “OmniTrans – San Bernardino, LCNG Transit Station, P&ID”, Drawing 21003-23, Revision B, December 2001.
- “LNG Offload Gas Monitoring Procedure”, April 2003.
- “Process Hazard Analysis”, LNG-CNG Fueling System, OmniTrans East Valley, April 2014.

The following documents and information sources were consulted to ensure that all accident scenarios discussed in them are addressed in the HAZOP study:

- “OmniTrans East Valley LNG – CNG Facility, San Bernardino, CA August 21 & 22, 2001”, Process Hazard Analysis. Loss Control Associates, Inc. 2001.
- Industry Incidents Summary (see Appendix C)

Definition of the Nodes

The system is divided into the following nodes:

Node	Description
1	LNG Storage Tanks (V-100 and V-150)
2	LNG from LNG Storage Tank through LNG Pumps (P-200 or P-210) to Positive Displacement LNG Pumps (P-300, P-310, and P-320)
3	Positive Displacement LNG Pumps (P-300, P-310, and P-320) through liquid natural gas Vaporizers (H-400 or H-410)
4	CNG from Vaporizers to Buffer System and Dispensing
5	Truck offloading to LNG Storage Tanks (V-100 and V-150)

Assumptions

The analysis is based on the following assumptions:

- All maintenance contractors and vendor truck drivers are properly trained on their assigned tasks and industry accepted safe work practices.
- Since they are located inside the Pump Pots, loss of flow to a centrifugal LNG Pump would not lead to any leaks.
- The likelihood of a check valve to stick open is sufficiently small to not warrant consideration (note that check valves may leak but are very unlikely to cause a severe pressure boundary failure).

HAZOP Worksheets

The analysis is recorded in a standardized worksheet where the node, deviation, cause, consequence and safeguards are noted in separate columns. If a scenario leads to an adverse condition, a reference is added in the last column titled as “Further Analysis” directing the reader to other studies where the hazard zone of the scenario is estimated.

Appendix D provides a complete set of the HAZOP worksheets developed for this study. Figure 1 provides an example where three scenarios are included. The first scenario in Figure 1 describes a 1” pipe break that occurs outside the LNG Storage Vault upstream of the Vaporizer. This scenario is postulated in Node 3 as part of “Other than Flow” deviation. The entries in “Further Analysis” column refer to the event tree and hazard zone analysis cases associated with this scenario. Hazard zone analysis, as discussed later in this report, is based on the assumption that none of the safeguards are in place. Later when the likelihood of the scenario is estimated, failure probabilities of the safeguards are included in those computations. The second example refers to a drain valve left open due to operator error that leads to vapor release from the vent pipe above the roof line. Hazard zone analysis has concluded that the gas would disperse upwards and would not pose a hazard to the public. This is noted in the “Further Analysis” column and the analysis case is referenced.

Safeguards that are credited as a protection layer are prefaced with a “*” (protection layers are discussed in Section 7.4).

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HAZOP Worksheet

Node: 3. Positive Displacement LNG Pumps (P-300, P-310, and P-320) through liquid natural gas Vaporizers (H-400 or H-410)
Deviation: 3. Other than Flow
Drawings / References: 21003-20; 21003-20A; 21003-22
Equipment ID: P-300; P-310; P-320: Positive Displacement LNG Pumps

Cause	Consequence	Further Analysis	Effective Safeguards	Remarks
9. 1" pipe break on the liquid side outside the LNG Storage Vault due to internal causes	1. Potential for release of natural gas liquid outside. Potential for fire.	ET03_03 HP Liquid Spill 4	1. Mechanical Integrity Program 2. *PDP Pumps are equipped with a low pressure shutdown. 3. Natural gas detectors in the vault will alert personnel. 4. Foam suppression system can be activated to reduce thermal radiation.	

Node: 3. Positive Displacement LNG Pumps (P-300, P-310, and P-320) through liquid natural gas Vaporizers (H-400 or H-410)
Deviation: 4. Misdirected Flow
Drawings / References: 21003-20; 21003-20A; 21003-22
Equipment ID: P-300; P-310; P-320: Positive Displacement LNG Pumps

Cause	Consequence	Further Analysis	Effective Safeguards	Remarks
1. A drain valve upstream of the Positive Displacement LNG Pumps left open after maintenance	1. Release of natural gas liquid from the vent. Potential for fire.	No offsite consequences per Phast Runs "LP Liquid Venting 6" and "Storage Tank Spill 2"	1. Truck driver training and procedures.	

Node: 3. Positive Displacement LNG Pumps (P-300, P-310, and P-320) through liquid natural gas Vaporizers (H-400 or H-410)
Deviation: 10. Low Temperature
Drawings / References: 21003-20; 21003-20A; 21003-22
Equipment ID: P-300; P-310; P-320: Positive Displacement LNG Pumps

Cause	Consequence	Further Analysis	Effective Safeguards	Remarks
1. H-400 or H-410 Vaporizer fan failure due to internal causes	1. Decreased ability to vaporize liquid natural gas. Potential to send some liquid downstream of the vaporizers. Potential to expose the Priority Panel and Buffer Tanks to low temperature material. Potential for low temperature embrittlement that leads to fracture and failure. Release of natural gas liquid in the area. Potential for fire.	ET03_04 HP Liquid Spill 5	1. *TAL-400 or TAL-410 low temperature alarm and shutdown of PDP Pumps.	

Figure 1 – HAZOP Worksheet – An Example

8.0 HAZARD ZONES

8.1 Release and Dispersion Phenomena

Upon LNG or CNG release, a chain of events unfolds that depend on the release conditions, location of release, presence of an ignition source and weather condition. A multitude of complex thermodynamic phenomena dictate the outcome of the chain of events. Figure 2 provides a graphical representation of the various phenomena and their inter-relationships.

Each scenario starts with an accidental release. The parameters of interest in that part of the chain of events includes the phase (liquid or gas), release rate and total quantity released. Phase depends on the location of the breach in the system. For example, a hose break would result in a liquid release, while a pre-mature relief valve lift would release gas. The release rate depends on the phase, size of the opening and pressure behind the release point.

In case of liquid release, LNG will evaporate rapidly and form a dense cloud that will disperse by the wind. In this case, depending on the rate of release, a pool of LNG may form that will then evaporate and feed gas into the cloud. In case of gas release, the vapor would form a cloud upon release.

Location of an ignition source affects the size and shape of the hazard zone. If there is an ignition source near the release point (also known as *immediate ignition*), the material will ignite close to the source forming either a jet fire, pool fire, or both. A jet fire occurs when the material is released under pressure from an opening. If the ignition source is away from the release point, released gas would have an opportunity to form a flammable cloud as it is being pushed down the wind, that may then ignite leading either to an explosion or flash fire that would flash back to the source.

The hazard zone of released LNG and CNG, therefore, depends on the specific conditions of the release. In case of immediate ignition, the hazard zone would be determined by thermal radiation from the jet and pool fire. In case of delayed ignition, it would be determined by the size and shape of the gas cloud. In both cases, the hazard zone depends on the quantity of heat imparted onto a person standing on the ground. Table 2 represents the damage thresholds used in this analysis to determine the potential impact of public exposure to heat from a fire. Appendix E provides the bases of the threshold values selected for this study.

Table 1 – Thermal Radiation Exposure Thresholds

Thermal Radiation Flux	Impact
2 (kW/m ²)	Pain from exposure in 60 seconds
5 (kW/m ²)	Second degree burns in 60 seconds (minor injury in 30 seconds)
10 (kW/m ²)	Lethal in 60 seconds (possible fatality)

In the case of delayed ignition, weather condition has an important role in establishing the size and shape of the gas cloud that may remain within the flammable range. Air enters the gas cloud because of the turbulent effects of the wind and diffusion. Generally, low wind speeds are more stable and, therefore, the gas cloud would mix with air at a slower rate leading to a longer gas cloud within flammable concentration range. At higher wind speeds, the air is more turbulent, enhancing the mixing process. The net effect of this condition is a shorter distance where the gas cloud remains within its flammable range. Appendix F provides information about the weather patterns near the facility.

To estimate the hazard zone of a release, computational methods are needed that take into account the multitude of phenomena discussed above. Computerized method are needed for this purpose which are discussed below.

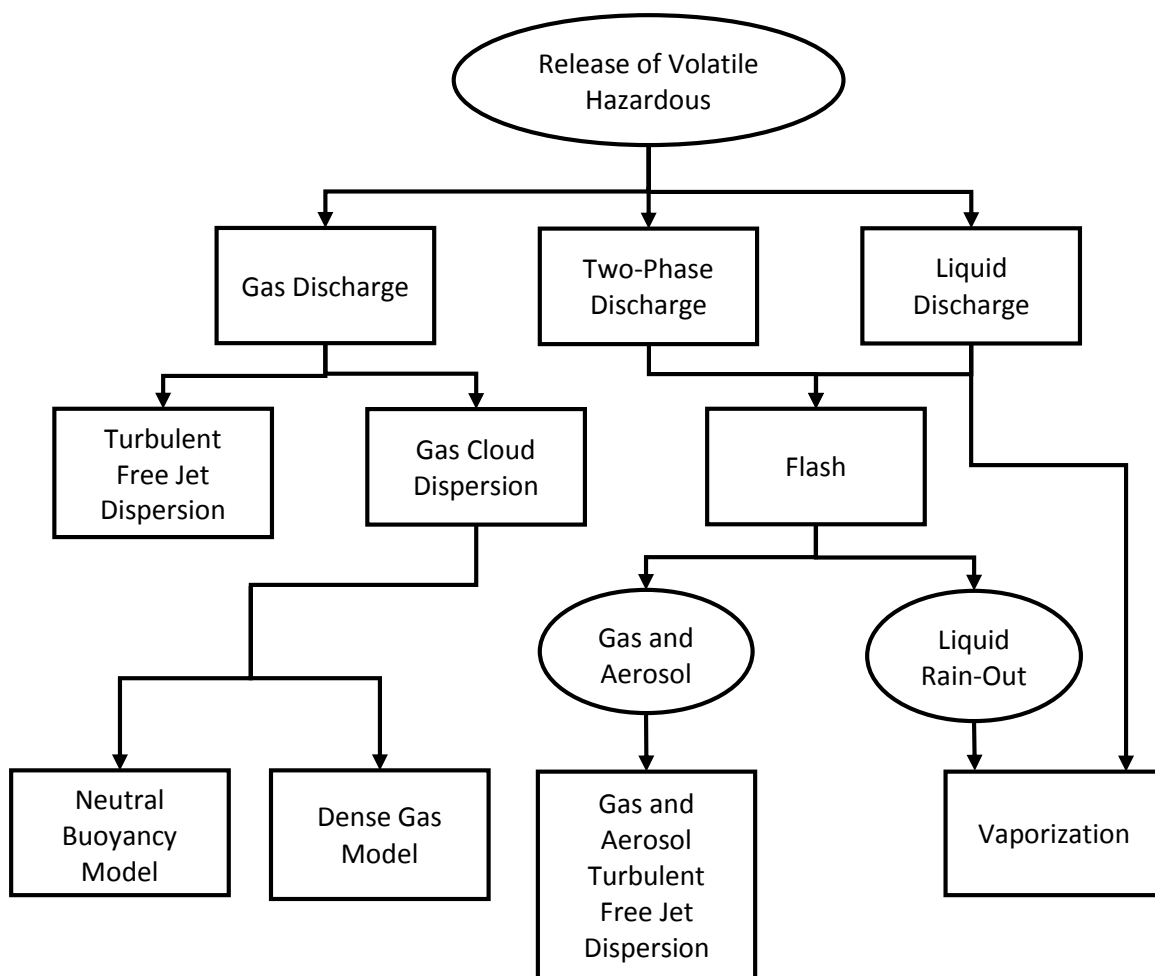


Figure 2 – Flow Chart of Release Phenomena
(Adopted from [CCPS, 1989])

8.2 Modeling Software

There are a large number of software packages currently available which can be used to model the release and dispersion characteristics for hazardous chemicals in industrial processes. Of these, several were designed with an emphasis on the dispersion characteristics of dense gases such as LNG. The most widely used models are ALOHA, RMP*Comp, the Dense Gas Dispersion Model (DEGADIS), SLAB, and Phast's Unified Dispersion Model (UDM). For the purposes of this report, Version 7.11 of Phast by Det Norske Veritas [DNV, 2015] was used as the primary modeling tool. Phast was chosen over ALOHA and RMP*Comp as the latter two programs are designed to provide over-conservative estimates for regulatory use. The simplistic models used by these programs result in large hazard footprints which are not necessarily accurate to the reality of a given scenario. Phast was also chosen over DEGADIS and SLAB, as these are only capable of modeling the concentration footprint for a given release, and cannot provide results for radiation due to fire or overpressure due to explosion. In addition, Phast's Unified Dispersion Model (UDM) has been approved by the US Department of Transportation

Pipeline and Hazardous Materials Safety Administration (PHMSA) for modeling of accidental releases of LNG [Quarterman, 2011].

Phast's UDM is able to provide results for discharge, dispersion, flammable, and explosive calculations for accidental releases of hazardous substances [Witlox, 2015]. In modeling a release from a vessel, Phast considers flashing of a liquid release into two-phase flow, condensation into liquid droplets, rainout, pool formation, and evaporation. Figure 3 provides a visual representation of the various aspects of a release as modeled by Phast [Shaba, 2013].

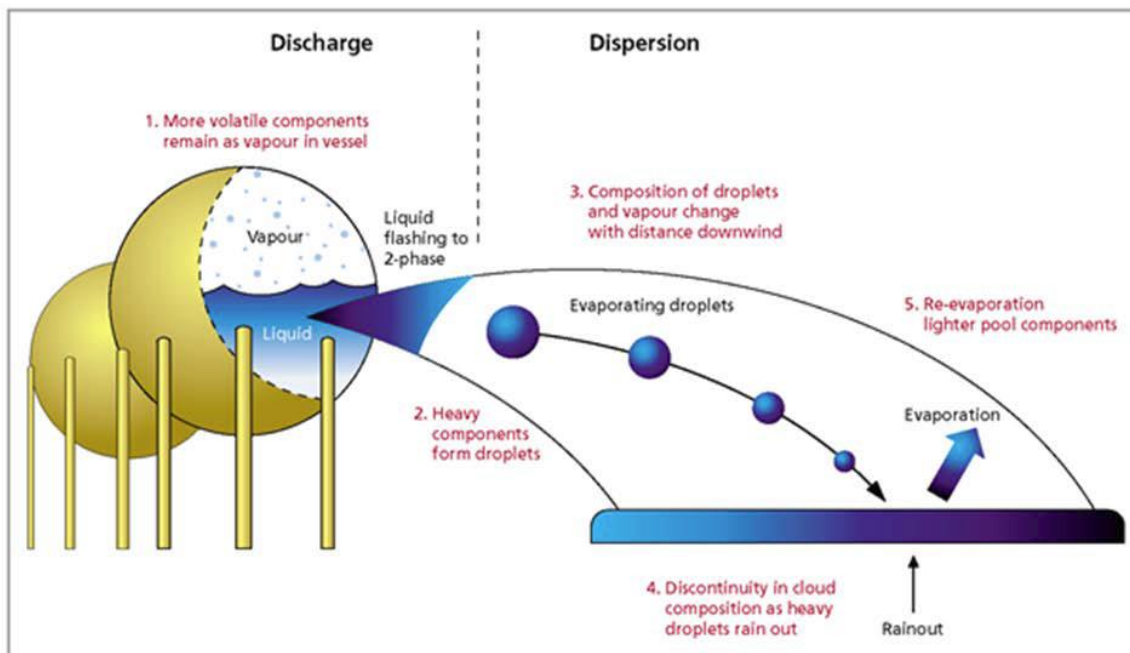


Figure 3 – Initial Stages of an Accidental Release as Modelled by Phast
(Adopted from [Shaba, 2013])

Following a release, Phast takes into account wind speed, ambient temperature, atmospheric stability, surface roughness, and other weather conditions in order to determine the behavior of the resultant vapor cloud as it travels downwind. In the case of flammable material such as LNG, Phast is able to calculate potential hazard zones based on thermal radiation due to a fire, or overpressure due to an explosion.

8.3 Scenario Definition

Following the scenario identification process, each potential release scenario from the HAZOP study is assigned to a release category. For example, in Figure 1 in *Further Analysis* column, “HP Liquid Spill 4” and “LP Liquid Venting 6” are two release categories assigned to the corresponding release scenarios. Since many of the scenarios in the HAZOP study lead to the same conditions, they are grouped into release categories that identifies the specific input parameters to be used with the modeling software. Each release category, along with the relevant Phast inputs and outputs, can be found in Appendix G.

It should be noted that based on variations in the process conditions which could impact the results some HAZOP scenarios may lead to more than one release category. For example, in Figure 1 “LP Liquid Venting 6” and “Storage Tank Spill 2” are assigned to the second scenario because in that scenario it is possible for an operator to close the drain valve upon noticing the spill on the roof. The first category (i.e., “LP Liquid Venting 6”) represents a release duration of 30 seconds and the second category (i.e., “Storage Tank Spill 2”) represents a continuous release until the affected storage is emptied. As another example, if a PSV on top of an LNG Storage Tank spuriously lifts, the liquid level in the Tank could be one third full, leading to an increased pressure release, or the Tank could be completely full, leading to a larger quantity of material released, but at a lower pressure. In this case, the spurious PSV lift identified in the HAZOP is tied to both “LP Vapor Venting 1” and “LP Vapor Venting 2” release categories for modeling purposes.

As discussed in the previous sections, following an accidental release of natural gas, ambient conditions have a significant impact on the dispersion of the resultant spill. Appendix F provides historical weather data for the San Bernardino area, which is used to define the weather conditions analyzed in this report. For each release scenario, three weather conditions are analyzed in terms of their ambient temperature, wind speed, and atmospheric stability class. Table 3 provides the weather inputs used in this analysis.

Table 3 – Weather Condition Definitions

Weather Condition	Category 1.5/F	Average Conditions	Santa Ana Conditions
Temperature (°F)	104	70	90
Wind Speed (m/s)	1.5	3.46	12
Atmospheric Stability	F	D	D
Percentage of Occurrence	39%	56%	5%

The first category, Category 1.5/F, is taken from the U.S. EPA’s guidance on defining conditions for a potential worst-case analysis [EPA, 2015], which states to use 1.5 m/s wind speed, an atmospheric stability class of F and the maximum recorded temperature over the previous five years. The Average and Santa Ana Conditions are defined using the historical data provided in Appendix F.

8.4 Time-Limited Releases

For many release scenarios presented in this analysis, there is a possibility that operators may intervene, or mechanical shutdowns will be able to activate, limiting the release to a specific duration. In these cases, two separate models are run in Phast, one in which the shutdown acts as designed, and the release is limited to a certain duration, and one in which no shutdown is activated, allowing the release to continue until the release source has been emptied. For the time-limited releases, a specific method must be used to allow for Phast to stop the release at a given time. For these events, the unlimited release case is run first, using the inputs displayed in Appendix G. From the unlimited release case, Phast allows

the user to “Create Source,” which creates a second scenario using the same release results calculated in the parent case. This new source can then be manually altered to allow the release to stop at the desired time.

8.5 Indoor Releases and Containment Size

Phast’s modeling software includes a simplistic model for releases which occur inside a building, such as the LNG Storage Vault. The model is designed to determine the dispersion and ignition characteristics of the released material by assuming that the released material is able to perfectly mix with the air inside the building before being released [Xu, 2014]. The model requires input data on the building size, as well as ventilation characteristics. While this model works well for small release sizes, Phast is not reliable for rapid releases of large amounts of material. For example, in the case of a large liquid spill, the rate of vapor generation from the spill is greater than the rate at which the ventilation system can remove material from the building. In this event, Phast is unable to calculate the dispersion characteristics of the release.

For this analysis, the LNG Storage Vault is modeled as an 85.5 feet x 35 feet building, with a ventilation rate of approximately five air changes per hour when the ventilation is activated. In this analysis it is assumed that the combustible materials detectors within the building will activate the ventilation system upon release of LNG.

In addition, there are two containment areas defined within the building - the Pump Area and the Storage Tank Area. The Pump Area is defined as an area 22 feet by 35 feet, yielding a surface area of 770 square feet, as well as a height of 4.5 feet. The Storage Tank Area, which encompasses both the Pump Area and the raised Storage Tank Platform, is defined as an 85.5 feet x 35 feet space, giving a total surface area of 3,000 square feet. Because Phast does not allow multiple heights to be specified within one containment area, the height of the Storage Tank Area is defined as being between that of the Storage Tank platform and that of the Pump Area. Because the Storage Tank platform accounts for roughly 2/3 of the total surface area of the Vault, the bottom of the Storage Tank Area is assumed to be located at 2/3 of the height of the Pump Area, giving an overall height of 16 feet.

With this data, Phast is able to calculate the behavior of small releases within the LNG Storage Vault. Large releases, however, are unable to be modeled with Phast’s current limitations. In guidance provided by DNV on indoor release modeling, Xu recommends that in the event that the release rate is greater than the ventilation rate, the model should be simulated as an outdoor release [Xu, 2014]. Additionally, because the evaporation rate is greater than the ventilation rate, pressure will rise in the LNG Storage Vault, building to the point that the roof vents will open (1 psi above atmospheric pressure), allowing the vapor cloud to enter the atmosphere directly. Therefore, for large indoor releases, dispersion modeling was performed as if the release took place outside.

8.6 Dispersion and Hazard Zones

Once a release has been properly defined, Phast will produce a series of graphs and reports detailing the dispersion characteristics for the particular scenario and weather condition. Downwind dispersion is displayed in terms of the maximum volumetric concentration of flammable material. In order for a release to ignite, it must be within the flammability range. That is, the ratio of flammable material to oxygen must be within a given range. As detailed in Appendix A, the flammability range of natural gas is taken to be between 5 to 15 volume percent in air. Outside these limits, the mixture is either too rich or too lean, which will not sustain combustion. However, due to the possibility of formation of flammable pockets within a vapor cloud due to mixing, as well as the uncertainties inherent in the dispersion model, Phast and PHMSA recommend that the flammable range be extended to 1/2 of the Lower Flammable Limit in order to form a more conservative picture of where ignition may occur [Quarterman, 2011]. For this study, 1/2 LFL is taken to be 2.5 volume percent.

If the release material ignited, there are five possible outcomes, depending on the ignition location (i.e., immediate and delayed ignitions). The possibilities are jet fire, pool fire, flash fire, Vapor Cloud Explosion (VCE), or BLEVE. A jet fire is caused when the material exiting the release point is under pressure and ignites, forming a flame pointing in the direction of the release. A pool fire occurs following a liquid spill, in which the liquid is allowed to pool prior to ignition, forming a large fire directly above the remaining liquid. Flash fire occurs when a vapor cloud is ignited in an unconfined area, causing the flammable material to burn rapidly before extinguishing. VCE and BLEVE are slightly more complex phenomena, and are described in detail in sections 8.7 and 8.8 below.

8.7 Possibility of Explosion

For an explosion to occur, a vapor cloud must ignite in a confined area. The increased confinement causes a corresponding increase in flame speed, which can result in a significant pressure wave. There are a number of models in Phast which may be used to determine the effect of a vapor cloud explosion, including the TNT method, the Multi-Energy method, and the Baker-Strehlow-Tang method. For this study, the Baker-Strehlow-Tang method was chosen over the TNT and Multi-Energy methods, as the latter two methods do not account for the low reactivity and flame speed of methane [Quest, 1999]. Additionally, the Multi-Energy method assumes a stoichiometric mixture of air and natural gas [Quest, 1999], which is an over-conservative assumption for this study.

In order to accurately determine the extent of the overpressure, the Baker-Strehlow-Tang method calculates the flame speed, which is calculated using five input parameters: degree of confinement, material reactivity, the effect of ground reflection, confined volume, and congestion.

Degree of confinement refers to the number of spatial dimensions to which the flame path is restricted. For example, ignition in open atmosphere would be classified as 3D, while an explosion between two buildings, in which the flame can only propagate upward or to

the sides, would be considered 2D confinement. As the number of restricted dimensions increases, the flame speed and overpressure strength will increase accordingly, as the explosion energy will be funneled in only a few directions [Taveau, 2012]. As a conservative measure, all explosions in this study are modeled using 2D confinement.

Material reactivity can be classified as low, medium, or high, depending on the burning velocity of the gas being analyzed [Taveau, 2012]. Based on the work of Zeeuwen and Wiekema [Xu, 2014(a)], methane is classified as a low reactivity material, which results in a lower flame speed (and a correspondingly lower explosive potential) than heavier hydrocarbons such as propane and butane [Taveau, 2012].

Effect of ground reflection is used to determine the effect of the ground on the explosion force. That is, when an explosion happens near the ground or a similar surface such as the roof of a building, the downward force of the flame will be reflected upward by the surface, increasing the force of the blast in other directions. Phast recommends that for near ground explosions, the effect of ground reflection be set to a factor of 2 [Xu, 2014(a)].

Confined volume and *congestion* are parameters which can be calculated based on the area in which ignition occurs. Phast uses the same approach contained in the TNO Yellow Book [Xu, 2014(a)], which was written for the Multi-Energy method. The parameters are calculated for each obstructed region within the volume that could be occupied by the flammable release cloud. If there is more than one region, a composite value for each parameter is produced from the individual regional values. Once the volume has been defined, congestion is calculated as the ratio of the volume which is occupied by obstructions (e.g., storage tanks, buildings, or equipment) to the total confined volume. Congestion can be categorized as low, medium, or high, depending on the percentage of obstruction. Low congestion is defined as a blockage ratio of less than 10%, medium congestion is defined as between 10% and 40%, while high congestion is defined as a blockage ratio of greater than 40% [Taveau, 2012].

As an example, for releases occurring near the LNG Tanker Truck the confined volume is calculated as follows. The driveway around the Truck is partially confined by two parallel buildings that are 10 feet high and 59 feet apart. The buildings are less than 100 feet long. The other two sides of the driveway are block walls that are 8 feet tall and 450 feet apart. Within the driveway, the only obstruction is the Truck, which can be approximated by a horizontal cylinder 10 feet in diameter and 30 feet long. According to Phast, the obstructed region should be 1.5 times the diameter, or 15 feet vertically and 10 times the diameter, or 100 feet in length, except where the buildings impose a shorter length [Xu, 2014(a)]. This first obstruction region starts at grade, goes up 15 feet, across 59 feet, and lengthwise 100 feet, for a volume of 88,500 feet³.

Within the obstructed region, the only obstruction volume is that of the truck, about 2,360 cubic feet, when modeled as a cylinder. The ratio of volumes is 2.67%, which falls in the low congestion level. Above this region, there is no obstruction or confinement.

Once the appropriate input parameters have been determined, Phast is able to calculate the strength of the pressure wave generated in the event of an explosion. In order to determine the hazard zone for an explosion event, damage thresholds have been defined to quantify the impact of an explosion on surrounding structures or people. Table 4 displays the damage thresholds used in this study, the bases of which may be found in Appendix E. Based on the computations done by Phast, it is concluded that for all the scenarios considered, a vapor cloud explosion capable of generating the pressures presented in Table 3 is not credible. Therefore, any ignition of a vapor cloud will result in a flash fire as described in section 8.5.4 above.

Table 4 – Overpressure Exposure Thresholds

Maximum Overpressure	Impact
0.5 psi	Windows break (possible slight injuries)
2 psi	Structural damage to homes (possible injury or fatality)
5 psi	Homes destroyed (probable fatalities), eardrums ruptured

8.8 BLEVE

Boiling Liquid Expanding Vapor Explosion (BLEVE) is a well-known phenomenon in the chemical industry. BLEVE can occur when a storage tank containing liquid is exposed to an external heat source, such as being totally enveloped in a pool fire. In this case, the increased heat input from the fire causes the liquid to reach and exceed its boiling point and pressure in the tank to rise significantly. If the tank is equipped with a relief valve, the valve will open ejecting vapor to maintain tank pressure below its design limit. As vapor is released from the tank the liquid level will decrease leaving tank shell unprotected by the cooling effect of the liquid inside. The external heat source impinging on those parts of the tank that are no longer protected by the liquid inside may weaken the shell of the storage tank to the point of failure. Since the tank is under excess pressure, the weakened tank shell will rapidly propagate to a large break releasing tank contents. The liquid remaining in the tank, since it is well above its boiling point, will boil rapidly due to the sudden pressure drop, and the expansion of the resulting vapor can cause a large pressure wave. In addition, if the material inside the tank is flammable, the released material will ignite, resulting in a large fireball.

While a BLEVE event would have a large impact on the nearby population, the occurrence of such an event at the OmniTrans Facility is considered highly unlikely. The conditions necessary to cause a BLEVE are very specific. A large pool must form directly underneath the Storage Tank or Tanker truck, which, given the siting of the facility, requires a liquid leak in a specific location and in a specific direction. Following ignition, the fire must continue for a long enough duration to vaporize some of the material in the tank, as well as weaken both the outer and inner Tank shells. Even in the worst case, it can be concluded

that there is not sufficient material in the Storage Tanks or Tanker truck to lead to a fire under these tanks long enough to cause BLEVE conditions. Therefore, such an event is considered to be of such a low likelihood as to not require further analysis.

8.9 Assumptions

To be able to estimate the hazard zones, it was necessary to make the following assumptions:

- In the event of a release during truck unloading, the driver or the standby OmniTrans employee will be able to recognize and respond to a loss of containment within 30 seconds. If they are unable to respond within that time, it is assumed that the release will continue until the truck empties.
- Similarly, in the event of a release when personnel are not immediately present, it is assumed that detection and response may take up to an hour, depending on personnel on site. If the release cannot be stopped within that time, it is assumed that the release will continue until the affected LNG Storage tank empties.
- The surface roughness factor is taken to be 1m, which is the recommended value for releases in an urban area [DNV, 2015].
- For the purposes of modeling high pressure LNG, the temperature of the material is assumed to be -118°F, as this is the maximum liquid temperature of methane before it becomes supercritical.
- Although the LNG Storage Vault floor is below street level, all releases in the vault are assumed to be at 0 feet, as Phast does not account for subterranean releases.
- For explosion modeling, areas of minimal congestion (e.g., the vent above the LNG Storage Vault) were assigned the default confined volume of 1 m³.
- Ignition of a vapor cloud will result in a flash fire throughout the flammable area of the cloud. Due to the rapid nature of the flash fire, it is assumed that some injuries may occur if people are exposed to the flame, but it is highly unlikely to result in a fatal event.
- If a vapor cloud exits the LNG Storage Vault and ignites, it is assumed that the region of the cloud exiting the Vault will be too rich for flash back to ignite material remaining inside the Vault.

9.0 PROBABILITIES OF A HAZARDOUS EVENT

9.1 Event Tree Analysis Methodology

The scenarios defined by the HAZOP study are further refined through event trees to take into account special conditions (e.g., ignition time and system shutoff to limit quantity released). Event tree analysis is a technique in which all possible outcomes of a loss of containment event are examined in a systematic manner. Event trees are generally used to model chains of events or to identify the combinations of events that can take place after an event is initiated. In this study, event trees are used to identify the combinations of conditions that may affect the hazard zones and to compute probability of occurrence of the conditions that lead to a specific hazard zone.

The scenarios defined by the HAZOP study can be divided into six distinct types for the purposes of event tree analysis. These types are identified in Table 5. The number in the first column refers to the associated event tree number. Event tree title, description and related information are provided in following columns of Table 5.

Event trees were developed only for those release scenarios identified in the HAZOP for which Phast predicted that the hazard zone will travel offsite. Otherwise, in the “Further Analysis” column of the HAZOP Worksheets it is noted that the released material would not travel offsite. Appendix H provides all the event trees that were developed for this study.

An event tree starts with an initiating event and continues with various additional events that can have multiple outcomes. The chains of events or sequences of events are identified by considering the possible outcomes of events that follow the initiating event. The combinations of the events in an event tree represent a sequence of events with their own characteristic conditions and probability of occurrence. Figure 4 shows a simple event tree with only two branches. In this event tree, after a relief valve lift (the initiating event) the possibility of immediate and delayed ignition is examined because ignition time affects the hazard zone associated with this initiating event. The upper branch represents delayed ignition and the lower branch represents immediate ignition.

Table 5 – Release Types used for Event Tree Analysis

Event Tree	Title	Description	Description of Results
1	Gaseous Natural Gas Release with no Flash Fire	Release of gaseous natural gas to atmosphere through a relief valve vent due to pressure increase in the system or relief valve spring breaking. Phast dispersion model predicts that no flash fire offsite is possible.	Phast predicts that the release will not result in a flash fire offsite as the released material will rise above all potential ignition sources. If immediate ignition occurs at the release point, thermal radiation

Table 5 – Release Types used for Event Tree Analysis

Event Tree	Title	Description	Description of Results
			offsite due to jet fire is a possibility.
2	Liquid Natural Gas Release in Building	Release of liquid natural gas within the Storage Vault building due to mechanical failure of a pipe, flange, or tank (liquid side).	Phast predicts that a vapor cloud explosion is not possible. Flash fire offsite, and thermal radiation offsite due to a jet fire or pool fire are possible.
3	Liquid Natural Gas Release Outdoors	Release of liquid natural gas outside of the Storage Vault resulting in a liquid natural gas pool.	Phast predicts that flash fire offsite, and thermal radiation offsite due to a jet fire or pool fire are possible.
4	Liquid Natural Gas Release Outdoors Due to Tanker Hose Mechanical Failure	Release of liquid natural gas outside of the Storage Vault due to Tanker hose failure.	Phast predicts that flash fire offsite, and thermal radiation offsite due to a jet fire or pool fire are possible.
5	Fire Near the Buffer Tanks	A fire near the Buffer Tanks due causes other than natural gas leak resulting in increased pressure within the Buffer Tanks.	Phast predicts that flash fire offsite, and thermal radiation offsite due to a jet fire are possible.
6	Large CNG Release	Release of large quantity of CNG due to CNG piping failure, Vaporizer tube failure (vapor side), CNG Dispensing Station hose failure, or Fueling Station PSV lift.	Phast predicts that flash fire offsite and thermal radiation offsite due to a jet fire are possible.

A probability is associated with each branch point in an event tree. Once all possible outcomes of the events are examined and their associated probabilities are estimated, the probabilities of the chains of events can be determined.

Relief Valve Lift	No Immediate Ignition	
	0.99	1.98E-05 Dispersed Unignited Vapor; No harm
2.00E-05	Yes	
	0.01	2.00E-07 Thermal Radiation
	No	

Figure 4 – Example of Event Tree 1

The probability of each sequence in an event tree is obtained from multiplying the initiating event frequency with the probabilities of the branch points of the sequence. In Figure 4, the initiating event probability (2.5×10^{-5} per year or once in 4,000 year) is multiplied with

the probability of immediate ignition (0.01) to obtain the event sequence probability (2.5×10^{-7} per year or once per 400,000 years).

9.2 Event Probabilities

Probabilities of occurrence of the events considered in this study are estimated based on industry sources. Several reports provide failure rates for equipment and human error probabilities (see [Haag, 1999], [HSE, 2012], [PHMSA, 2015] and [CCPS, 2014]). From these sources the probability of occurrence of each initiating event (e.g., pipe break and hose rupture) and probability of failure of mitigative features (e.g., failure of an automatic shutoff system) are estimated. The estimated probability values, their bases and associated references are provided in Appendix H.

9.3 Hazard Distance vs Probability

An event tree and one or more release categories are associated with each scenario in the HAZOP worksheets that may lead to offsite effects. For the events identified through each event tree, at least one Phast computation is conducted to establish the various hazard zones associated with the scenario. Figure 5 is an example case taken from Appendix H where the analysis associated with a release category is shown. The type of hazardous event (i.e., flash fire, jet fire, etc.) is specified for each event sequence. Phast results are summarized below for the three postulated weather conditions. For example, the hazard zone of a flash fire associated with 1.5 m/s wind speed and F stability weather condition can extend 885 feet. Thermal radiation down to 2 kW/m^2 for the same scenario may extend 308 feet and jet fire for the same thermal radiation level to 257 feet. These events can occur in all directions depending on the wind direction. Therefore, the orientation is noted as “All” for all cases. The shortest distance between the location of the release and the nearest site boundary is 20 feet for all cases. Therefore, the hazard zone for each case is 20 feet less as noted in the “Footprint Offsite” numbers.

The frequencies of the events are evaluated next. The frequencies are presented in a three column set (see bottom part of Figure 5): flash fire, 2 kW/m^2 impact and 10 kW/m^2 impact. The first two represent potential for injury to the person exposed to those conditions and last column (i.e., 10 kW/m^2) is assumed to represent conditions that may cause severe injury and even fatality if an exposed person is unable to self-evacuate. The three frequencies presented in each column are based on the fraction of the time that the weather is in specified category (see Appendix F for the bases of the fractions used). Note that the sum of the frequencies in each column is equal to the frequency of corresponding event sequence. The frequencies of the second and third columns are the same because the same event will lead to 2 and 10 kW/m^2 hazard zones, but at different downwind distances. The hazard distance of these events are taken to be the maximum estimated by Phast for each event sequence.

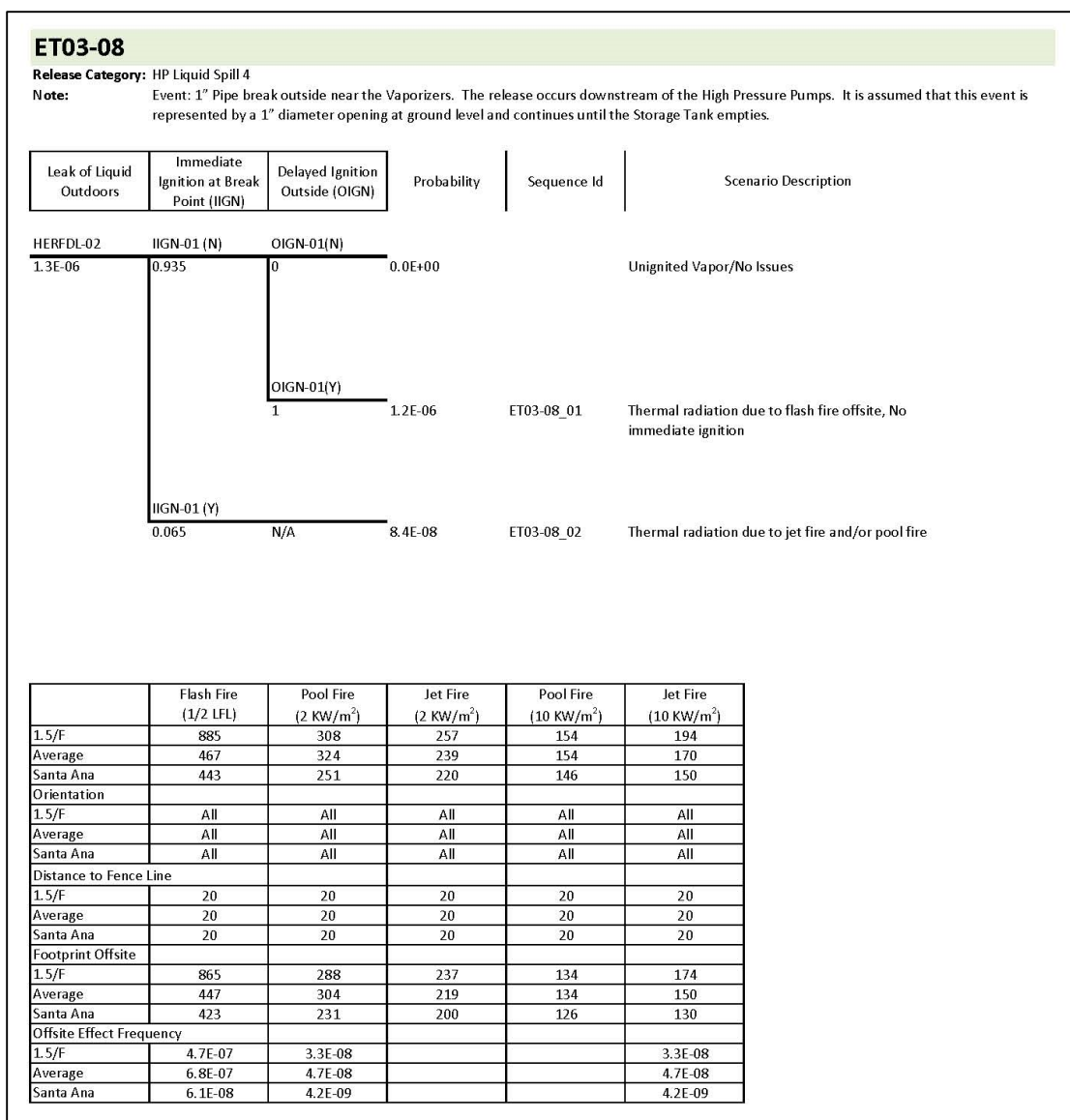


Figure 5 – Example of Hazard Distance vs Probabilities

The event tree analyses provide hazard distances and their probabilities of occurrence for various scenarios. The scenarios are grouped into those that may cause an injury (i.e., flash fire and 2kW/m² exposure events) and may the potential to cause fatality (i.e., 10kW/m² exposure events). A hazard distance versus probability of occurrence matrix can be put together for these two cases by bringing together all scenarios. It is common practice to present the probabilities of exceedance, which represent the probability of occurrence of certain hazard distance or greater. For example, an event with a maximum impact 100 feet downwind will also have an impact at 20 feet downwind, and so the probability of exceedance at 20 feet will take into account the probabilities of all events with a maximum impact of 20 feet or greater. Appendix H presents the results of the hazard distance vs. probability calculations, which are based on the offsite footprint distances and probabilities presented in Table H7 of Appendix H. The probability values in Appendix H are obtained by adding probabilities that are computed using the event trees for all scenarios that lead

to a hazard distance equal or greater than the specified distance. For example, the probability that a 10kW/m^2 hazard zone will exceed beyond 170 feet from the facility boundary is approximately once per 200,000 year (5×10^{-6} per year).

From the data presented in Appendix H it can be concluded that the overall probability of experiencing an injurious event outside the facility boundaries is approximately once per 4,500 years and the probability of an event with the potential for a fatality offsite is approximately once per 65,000 years. It is important to understand that these probability values represent rare events that may never happen in the life of OmniTrans facility. One method to interpret these values is to consider a large number of similar facilities. For example, 2×10^{-4} per year (once in 5,000 years) can be interpreted as that there is a high likelihood that the event may occur once within one year if 5,000 similar facilities exist.

Additionally, from the data in Appendix H, the following can be stated:

- The hazard zone of 95% of events that may cause injury would not exceed 890 feet from facility boundary.
- The hazard zone of 95% of events that could be fatal would not exceed 180 feet from facility boundary.

10.0 UNCERTAINTIES

Uncertainty is inherent to risk analysis. As it can be seen in the definition of risk (see Section 4), one of the three parts that characterize risk deals with the likelihood of what can wrong. These uncertainties are represented by the event probabilities discussed in the preceding sections. Point values are used to express these probabilities. For example, in Appendix H the probability of experiencing a 170 feet or greater hazard zone is 5×10^{-6} per year, a single value.

There are uncertainties inherent in all engineering computations. These uncertainties arise from imperfect models of the events and imperfect statistical information. The following notes address some of the sources of uncertainties that are deemed to be important to this study.

- Single values are used for the input parameters for Phast runs. For example, the break size is specified as a 3" diameter opening on a hose 15 feet from the storage tank and pressure behind that point as 80 psig. These single values represent a range of possible parameter values.
- The formulae that form the bases of Phast computations model very complex physical phenomena in an idealized fashion. Much effort has been expended by experts to make these computational methods as real as practically possible. But there are still many uncertainties in these models that cannot be easily eliminated.

- Two ignition possibilities are considered in this study – immediate and delayed ignition. The delayed ignition is assumed to occur at the time when the vapor cloud is at its largest extent downwind. In an actual event, ignition may occur at any time after a release or not at all. This two-point model used in this study is a crude and conservative depiction of what may occur in an actual event. It is deemed that this practice is one of the significant sources of uncertainty in this study and the results presented are larger than what they may have been if the ignition time was modeled as a continuum between the point of release and largest cloud extent.
- Probability values employed for estimating scenario occurrence probabilities include uncertainties inherent in all statistical analyses. The values are taken from industry sources that are based on general industry settings that cover a wide range of design and application possibilities. These sources generally tend to over-estimate the probability values due to the nature of risk analysis practices, where the tendency is to over-estimate the risk to support a risk-averse approach. In some cases the uncertainties in the probability values can be significant. However, in the opinion of the analysts of this study, the probability values used are generally over-estimated.

11.0 CONCLUSIONS AND RECOMMENDATIONS

A study is conducted of the LNG storage and handling systems of OmniTrans public transit bus refueling station in the City of San Bernardino. The objectives of the study included:

- Ensure compliance with safety and regulatory requirements.
- Review of seismic aspects of the systems
- An assessment of the probability of an explosive atmosphere
- Identification of potential ignition sources
- A quantitative analysis of accident scenarios that includes small releases
- The probability and consequences of the explosion
- Study whether a hazardous or non-hazardous area exists at the fueling site.

The codes and standards that apply to LNG fueling stations are reviewed. A large number of standards were in effects when the original LNG storage, pumping and vaporization systems were designed and constructed. Since then, they have been consolidated into NFPA 52, which addresses LNG storage and fueling systems. In this study, the systems are reviewed against the current requirements and it is concluded that in general terms the systems comply with NFPA 52 requirements. There are only a few hardware related differences between the design and current NPFA 52 requirements. The balance of the differences relate to administrative issues that are partly met by current practices.

The seismic ruggedness of the systems is also reviewed in this study. The standard that was used at the time of design is compared with current standards and it is concluded that the margin of safety used in the original design well covers the new requirements. Additionally, a system walk-down was conducted. From that direct observation of the physical systems a few recommendations are proposed to improve seismic safety of the storage and handling systems.

To address the last five bulleted items of the objective listed above, a risk analysis is conducted where a set of potential release scenarios are identified. The hazard zone of each scenario is estimated, and for those that can extend outside the facility boundary, probability of occurrence is estimated. Scenarios are identified by using HAZOP methodology (a method commonly used in the chemicals processing and petroleum refining industries) and later refined through the application of event trees where various potential conditions that can influence the hazard zone are included in the model. With this methodology, a wide range of scenarios are identified that includes small and large releases depending on the specific conditions of the event. For example, a flange failure is expected to lead to a small release, while hose break when unloading a truck is expected to lead to a large release.

Several computer programs were examined for estimating the shape and dimensions of potential hazard zones. Phast [DNV, 2015] was selected for this study since it offers the most sophisticated features that model release of LNG. Hazard zone computations take into account release conditions (e.g., liquid release and evaporation), formation of a gas cloud, and ignition leading to jet fire, pool fire and flash fire. The possibility of BLEVE and vapor cloud explosion are examined, and it is concluded that neither pose a credible threat at this facility. However, several scenarios are concluded to have an impact outside the facility boundary through thermal radiation.

From these analyses it is concluded that an explosive atmosphere is only possible in confined spaces. At this facility, the only confined space in which LNG may be released is the Storage Vault, which is protected through explosion proof electrical equipment (i.e., all ignition sources are fully isolated within the Vault) and a manually activated foam fire protection system. As noted above, explosion is not credible in the open areas outside the Vault.

Specific ignition sources are not examined explicitly in this study. It is assumed that ignition is possible everywhere. Two ignition times are considered: *immediate* (i.e., ignition occurs upon release of LNG) and *delayed* (i.e., ignition occurs when the gas cloud is at its maximum extent within the flammable range.) This leads to conservative results because it does not take into account the possibility of ignition before maximum extent is reached, which will predict a smaller hazard zone. It also does not take into account the possibility of no ignition before the gas dissipates below its flammable concentration.

Scenario probabilities are also estimated in this study using failure probabilities and human error rates provided in various industry sources. The hazard zones are divided into two categories: (1) potential for injury and (2) severe injury with the possibility of fatality if

the exposed person is unable to self-evacuate. In the first category, flash fire scenarios and hazard zones of 2kW/m^2 thermal radiation are assumed to have the potential to cause an injury. In the second category, 10kW/m^2 thermal radiation is assumed to cause a condition where, if an exposed person does not get an opportunity to self-evacuate (e.g., falls and becomes incapacitated), a severe or even a fatal injury is possible. The total probabilities of the two hazard categories are concluded to be once per 3,500 years and once per 47,000 years, respectively. These probabilities demonstrate that offsite impact of LNG operation at OmniTrans facility is a rare event, which is also corroborated by the industry experience. From a review of industry events since mid-1940s, none of the reported LNG release events has adversely affected public safety. These probabilities are deemed to be conservative given the uncertainties in the hazard zone modeling and that event probability sources tend to report probability values conservatively.

From a study of scenario probabilities and hazard zones it is concluded that 95% of potential injury scenarios may extend up to 880 feet from the facility boundary and 95% scenarios with the potential for severe injury may extend up to 175 feet from the facility boundary.

As a final conclusion, it can be stated that there is no regulatory requirement for OmniTrans to modify any of its current practices, and that this study did not discover any significant safety deficiencies. However, based on direct inspection of the physical systems, observations of LNG receiving operations, review of current OmniTrans practices and review of current codes and standards, a list of recommendations are put together as potential improvement suggestions for the consideration of OmniTrans management. The recommendations are listed in Table 6 bellow.

Table 6 – Suggested Improvements

No.	Recommendations
R01	Consider posting signage along walls where CNG piping is fastened to prohibit placement of items and vehicles within the vicinity of the wall.
R02	Consider additional security measures by installing an alarm on the LNG building doors and fill station access hatch.
R03	Consider implementing a comprehensive housekeeping practice that prohibits placement of items and vehicles within 10 feet of LNG and CNG tanks, equipment, and piping.
R04	Consider adding the rain caps on the vertical vent pipes of the relief valves at the CNG Buffer Tanks to a maintenance program to ensure they are properly maintained and remain closed under normal conditions.
R05	Consider posting warning signs, with lettering large enough to be visible and legible from each point of transfer, at the dispensing points with the following words: A. STOP MOTOR. B. NO SMOKING. C. FLAMMABLE GAS. D. NATURAL GAS VEHICLE FUEL CYLINDERS SHALL BE INSPECTED AT INTERVALS NOT EXCEEDING 3 YEARS TO ENSURE SAFE OPERATION OF THE VEHICLE E. NATURAL GAS FUEL CYLINDERS PAST THEIR END-OF-LIFE DATE SHALL NOT BE REFUELED AND SHALL BE REMOVED FROM SERVICE.
R06	Install warning signs with the following words at the Storage Vault and at the Buffer Tanks: "NO SMOKING, FLAMMABLE GAS"
R07	Consider posting the service pressure at each dispenser so that it will be in view of the operator.
R08	Consider installing a barrier at the LNG piping between the Storage Vault and the LNG Vaporizers so that in the case of an integrity failure of the LNG containing piping, saturated LNG is deflected upward.
R09	Consider implementing a comprehensive housekeeping practice that prohibits placement of rubbish, debris, and other materials that present a fire hazard within 25 feet of the Storage Vault and the LNG Vaporizers.
R10	Consider the addition of LNG storage tank operating status indicators including tank level indication in the unloading area where the indicators can be directly observed by the LNG truck driver.
R11	Consider providing fire protection equipment at the LNG offloading site.
R12	Due to lack of the capability for positive isolation, consider including in the Maintenance Program a requirement to shut down both vaporizers when the systems must be opened for maintenance.
R13	Consider posting the following information on the LNG storage tanks: 1. Nominal liquid capacity 2. Maximum permitted liquid density 3. Maximum filling level

Table 6 – Suggested Improvements (continued)

R14	Consider maintaining documentation of the regulatory agency requirement to install the LNG tanks in a building along with the design features of the building necessary to safely accommodate the tanks inside of a building.
R15	Consider developing a formal Management of Change Program that ensures all future changes to the LNG storage and handling systems comply with NFPA 52 requirements.
R16	Consider including within the facility maintenance program a validation of the refueling station and associated storage equipment not less than every 4 years. The validation should include the following elements: <ol style="list-style-type: none"> 1. Process safety analysis and hazard and operability studies (HAZOPS) 2. Mitigating fire protection measures such as suppression systems 3. Systems or vaults for the containers 4. Fire and gas detection systems designed to interface with an emergency shutdown device (ESD) 5. Ventilation and other facility features 6. Spill containment adequacy administered by qualified engineer(s) with proven expertise in these fields
R17	Consider including security elements in a Security Program and insure they are in compliance with Section 12.5 of NFPA 52.
R18	Consider including maintenance practices within a Maintenance Program and insure they are in compliance with NFPA 52.
R19	Develop a formal training program for all personnel that work with LNG storage and handling systems to comply with Section 12.4 of NFPA 52.
R20	Develop a formal procedure to address leaks in the LNG storage and handling systems.
R21	Consider developing a formal ignition source control program for the areas within 10feet of the bus fueling stations.
R22	Consider developing a formal ignition source control program for the LNG Storage Vault, vaporizer area and Buffer Tank Area within 10 feet of system equipment and piping.
R23	Consider creating an exclusionary area near the delivery truck to minimize the presence of an ignition source during LNG transfer.
R24	The written procedures that address LNG storage and handling systems and bus fueling related operations shall explicitly address Personal Protective Equipment (PPE) requirements and usage.
R25	Consider developing a formal Fire Protection Program that addresses Section 10.13.7, 10.13.8 and 10.13.9 requirements of NFPA 52.
R26	Consider including emergency response issues in an Emergency Response Program and insure they are in compliance with NFPA 52.
R27	Ensure that bus fueling procedure is posted at the dispensing station.
R28	Ensure that the newly constructed bus fueling stations are equipped with methane detectors. Consider further evaluation of the installation of site methane detection systems as specified in 5.2.1.1.1
R29	Ensure that the pressure safety valves to be installed in the new refueling facility are vented to a safe point of discharge.

Table 6 – Suggested Improvements (continued)

R30	Ensure that there is at least one emergency manual shutdown device within a distance greater than 25 feet from the dispensing area.
R31	Consider adding a foam activation switch at the control panel where the security cameras are monitored.
R32	Consider installing a barrier on top of the LNG lines downstream of the Positive Displacement Pumps to prevent pipe damage due to impact.
R33	Develop a leak response plan in case of a leak detection alarm in the Storage Vault.
R34	Consider adding a call-out system to the leak detection system that calls out key personnel in case of a leak.
R35	Ensure that all inspection and maintenance records are provided by the maintenance contractor in a timely fashion.
R36	Consider instituting a periodic audit of the various programs associated with the LNG storage and handling systems to review maintenance records, LNG delivery vendor performance and training records,
R37	Consider developing written instructions for monitoring LNG delivery to specifically address the location of the sensors, periodic calibration of the sensor device, and specific duties and timing of the OmniTrans person monitoring the delivery.
R38	Consider reviewing emergency shutdown of the truck with the vendor for the possibility of OmniTrans personnel to activate in the event of an emergency.
R39	Consider creating an exclusionary zone no less than 25 feet from the delivery truck where no vehicles are allowed to enter.
R40	Increase the clearance between South access ladder landing and the nearest Storage Tank to minimize the potential for damage in case of an earthquake.
R41	Increase the flexibility of the two LNG pipes between North wall of the Storage Vault and Vaporizers to minimize the likelihood of pipe damage in case of an earthquake and independent movement of the North wall and Vaporizers.
R42	Increase the flexibility in the pipes between the Vaporizers and North property boundary wall to minimize the likelihood of pipe damage in case of an earthquake.
R43	Review the LNG pipe connection to the northerly site property line retaining and fence wall to verify that pipe connections to the wall meet seismic design conditions.
R44	Review the anchorage and foundation of the Vaporizer to verify its seismic design basis
R45	Review the northerly site property line retaining wall and fence wall to verify its seismic design basis.

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LNG Operations Risk Assessment

Presented by

Mardy Kazarians

Kazarians & Associates, Inc.

Presented at

OmniTrans

May 11, 2015

Project Scope

The objectives of this study can be summarized as:

- Review and assess compliance with safety and regulatory requirements.
- Review and assess seismic aspects of the LNG storage and handling systems
- Assess the probability of an explosive atmosphere
- Identify potential ignition sources
- A quantitative analysis of accident scenarios
- Whether a hazardous or non-hazardous area exists

Compliance with Safety and Regulatory Requirements

A compliance analysis was done against NFPA 52.

- NFPA 52 (2013) is the most recent code covering all aspects of a CLNG system.
- The physical systems were found, in general terms, compliant with the current requirements.
- Suggestions are provided to meet the administrative aspects of NFPA 52.

Seismic Review

A seismic review of the LNG storage and handling systems was conducted.

- The original design is based on 1997 UBC, seismic zone 4, which is stricter than current code requirements for OmniTrans Facility location.
- Three minor upgrades are proposed based on a field review of the as-built systems.

Release Analysis

- A detailed analysis of potential release scenarios was conducted.
- Some of the scenarios may have adverse offsite effects.
- Adverse effects include:
 - Flash fire
 - Pool fire
 - Jet fire
 - Vapor cloud explosion – not possible outdoors
 - BLEVE – very unlikely

Release Analysis – Adverse Effects

- **Flash Fire**
 - Unignited methane gas travels down wind and touches off on an ignition source before it is diluted below LFL
 - Gas cloud burns by flashing back to the source
 - Short duration exposure to flames
- **Pool fire**
 - Released LNG forms a pool and ignites
 - Flames of burning pool radiates heat onto the surrounding items
- **Jet fire**
 - LNG or CNG releases under pressure from a small opening
 - Released material ignites forming a jet fire
 - The fire radiates heat onto the surrounding items

Release Analysis – Hazard Footprint

- Hazard zone depends on multitude of parameters:
 - Rate of release
 - LNG vs. CNG
 - Release orientation
 - Wind direction
 - Wind speed
 - Atmospheric stability

Release Analysis – Offsite Impact

- There is one in 3,500 chance per year for an event that may cause an injury offsite and 95% of such scenarios extend less than 880 feet offsite.
- There is one in 47,000 chance per year for an event that may cause severe injury offsite and 95% of such scenarios extend less than 175 feet offsite.
- Such events have not been experienced in the LNG facilities similar to OmniTrans.

Industry Incidents

- There have been no incidents at the OmniTrans Facility.
- Twenty four major LNG-specific industry incidents were reviewed (since 1944), of which 12 are found relevant to OmniTrans operation.
- Of these 12 industry events, none caused fatality or injury outside the facility.

Conclusion

- **Current design and operation are within accepted practices.**
- **Administrative changes may be warranted to enhance safety.**
- **There are scenarios, although unlikely, that may adversely affect the public outside the facility**

ITEM # E13

DATE: June 3, 2015

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: COMPRESSED NATURAL GAS (CNG) FUELING INFRASTRUCTURE
FEASIBILITY STUDY**

FORM MOTION

Receive and file the final report on the CNG Fueling Infrastructure Feasibility Study; and

Approve the recommendation to proceed with developing the preliminary design, technical specifications and solicitation documents with our “On Call” Architectural and Engineering firm STV, Inc.

This item was reviewed by the Operations and Safety Committee at its May 11, 2015, meeting, and recommended to the Board of Directors for approval.

BACKGROUND

Previously Omnitrans solicited and awarded a contract to Clean Energy (RFP-FIN14-269 CNG Fueling Infrastructure Feasibility Study) to evaluate the viability, cost(s) and benefits associated with implementing pipeline CNG fueling operations at its East Valley (EV), West Valley (WV), and “I” Street facilities. The feasibility study was performed to provide an alternative to Omnitrans’ current fueling operations.

Omnitrans’ current bus fueling operation requires delivery of liquefied natural gas (LNG), stored in two (2) 30,000 gallon tanks at EV, and one (1) 20,000 gallon tank at WV. The LNG is converted into CNG before fueling the buses. Converting LNG to CNG requires one and one-half (1.5) gallons to LNG to produce one (1) gallon of CNG. This process increases the cost to fuel our buses significantly. The current paratransit fleet located at I Street uses unleaded gasoline, but is transitioning to CNG.

RESULTS OF FEASIBILITY STUDY

First and foremost, the feasibility study concluded that there were no jurisdictional, operational, economical, or technical restrictions that would prevent Omnitrans from pursuing a pipeline CNG fueling infrastructure at its facilities. ***Note:** Omnitrans previously operated a CNG fueling facility at both EV and WV sites from 1996 – 2002.*

Second, based on current fuel consumption and LNG cost, the study estimated an annual savings in operational cost of \$760,000 and \$465,000 at EV and WV respectively, after implementation of a pipeline CNG fueling station. The estimated reduction in operational cost for the Paratransit fleet based at I Street increases from \$137,000 to \$951,000 once the fleet (60 vehicles) transitions from gasoline to CNG. Omnitrans can expect to realize a total cost reduction of \$2.2M in fueling cost after implementation of a pipeline CNG fueling infrastructure at the three (3) facilities, and the transition of the paratransit fleet from unleaded to CNG.

Third, the estimated cost to install a pipeline CNG fueling station is approximately \$2.3 million at the EV facility; approximately, \$1.7 million at the WV facility; and approximately \$1.6 million at the I Street facility. The total cost for installing the pipeline CNG fueling stations at the three (3) facilities is estimated at \$5.6 million. This cost includes the utilization of some existing components from the LNG fueling infrastructure.

Finally, implementation of a pipeline fueling station at the three (3) facilities, particularly EV, will hopefully alleviate the nearby community's concerns regarding the LNG facility. The pipeline CNG fueling station will utilize pipeline gas from the Southern California Gas Company. The method of delivery is through the existing pipeline, thus eliminating the need for the storage tanks. Currently, Omnitrans pays over \$300,000 annually on operational and maintenance (O&M) costs to ensure its fueling facilities complies with all existing regulatory requirements.

If approved by the Board of Directors, staff will work with STV, Inc., Omnitrans' on call Architect and Engineering firm to develop the preliminary design, technical specifications and solicitation documents and will present it to the Board of Directors for approval.

CONCLUSION

Investing in a pipeline CNG fueling infrastructure is a safe, economical, dependable, and cost effective means of fueling our fleet. A pipeline fueling strategy will eliminate the cost associated with liquefaction, LNG tanker deliveries, LNG storage tanks, and the regasification to CNG.

PSG: DW



OmniTrans

Request for Proposals
(RFP – FIN 14-269)

CNG Fueling Infrastructure
Feasibility Study
Final

Doug Cameron
Business Development Manager
(925) 392 - 8249
dcameron@cleanenergyfuels.com

4675 MacArthur Court, Suite 800
Newport Beach, CA 92660
(949) 437-1000
www.CleanEnergyFuels.com

April 20, 2015

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TAB I Executive Summary

In response to OmniTrans Request for Proposal (RFP – FIN -14-269) CNG Fueling Infrastructure Feasibility Study, Clean Energy has evaluated the viability, cost(s) and benefits associated with implementing pipeline CNG fueling operation(s) at two (2) bus facilities and one (1) Paratransit facility. The following report is the final pipeline CNG evaluation of the OmniTrans bus and fueling operations. Subsequent to meetings with OmniTrans beginning on February 9, 2015, Clean Energy has modified the original findings of the draft report and incorporated the updates in this final version.

Clean Energy compared the current LCNG fueling data and operational expenses to the projected cost(s) and potential benefits of OmniTrans utilizing pipeline Compressed Natural Gas (CNG). The Clean Energy evaluation includes; legal review of potential jurisdictional restrictions, operational feasibility, economic impact, technical requirements, estimated timeline and location of the proposed pipeline CNG stations at each facility. Clean Energy also reviewed OmniTrans current LCNG equipment for synergies and found several areas where the same assets can be optimized with the new pipeline CNG stations.

OmniTrans currently uses Liquefied Compressed Natural Gas (LCNG) at both the East and West Valley operations fueling a fleet of approximately 181 buses. The cumulative savings for the fixed route fleet could be up to \$13.5 million over the next ten (10) years. This number does not include the cost to design and build the stations but does include the cost to operate and maintain the CNG facilities.

OmniTrans services 15 cities covering a service area of approximately 480 square miles. This large area requires the OmniTrans fleet to burn double the industry average for fuel consumption per bus. The average transit bus burns 10,000 gallons of fuel per year; OmniTrans burns over 20,000 gallons. The average Paratransit bus burns 5,000 gallons per year and the OmniTrans paratransit fleet burns over 10,000 gallons per year per bus. These large numbers account for the dramatic fuel savings OmniTrans can achieve by utilizing pipeline CNG.

To properly evaluate the cost of three (3) pipeline CNG stations, Clean Energy estimated the cost of capital for OmniTrans based on a standard lease rate of seven (7) years with 4.25% interest. This allows OmniTrans an opportunity to evaluate one option for a pipeline CNG program without the cost of upfront capital.

TAB II Site Summaries

East Valley Bus Facility

The East Valley Facility operates a fleet of 118 CNG buses with 90 active and approximately 28 in reserve or maintenance. The fueling window is from 6:30pm to 3:30am. The dwell time for each bus to fuel and perform other functions such as cleaning and fare box service is approximately 12 minutes. Saturday fueling includes an estimated 2/3 of the fleet or approximately 60 buses and Sunday fueling includes an estimated 1/3 of the fleet or approximately 30 buses.

The East Valley facility has two (2) 30,000 gallon LNG tanks providing onsite storage for

approximately eleven (11) days of fuel usage. The facility converts odorless LNG into LCNG and dispenses approximately 5,400 gallons per day for the 90 active buses. OmniTrans is operating from a temporary fuel island with two (2) lanes and is under construction for a new permanent fuel island with three (3) lanes capable of fueling articulated buses.

The average fuel consumed per bus is approximately 45.9 gallons per day. This is an average for the entire fleet and the actual fuel consumed per bus varies by day, route and bus type. The OmniTrans East Valley fleet consumes approximately 162,494 gallons of fuel per month or 1.7 million gallons per year. The East Valley OmniTrans bus fleet consumes an average of 21,665 gallons per bus per year which is well above the industry averages (10,000 gallons per year) for fuel consumed per bus per year.

Based on the fueling requirements outlined above, Clean Energy has calculated the capacity and equipment specifications for a pipeline CNG station at this location. The equipment specifications can be found in the Technical Feasibility section of the report; TAB VI.

West Valley Bus Facility: 4748 Arrow Highway, Montclair

The West Valley Facility operates a fleet of 63 CNG buses with 54 active and approximately 9 in reserve or maintenance. The 54 active buses currently use two (2) fueling lanes and the dwell time for each bus to fuel and perform other functions such as cleaning and fare box services is 12 minutes per bus. The fueling window is from 5:30pm to 1:00am. Saturday fueling includes an estimated 2/3 of the fleet or 36 buses. Sunday fueling includes an estimate 1/3 of the fleet or 18 buses.

The West Valley facility has two (2) 30,000 gallon LNG tanks providing onsite storage for approximately twenty (20) days. This facility, like East Valley also converts odorless LNG into LCNG and dispenses approximately 2,991 gallons per day for the 54 active buses. The average fuel consumed per bus is approximately 47.5 gallons per day. The West Valley fleet consumes an average of 19,944 gallons of fuel per year per bus and over 1.0 million gallons total.

Based on the fueling requirements outlined above, Clean Energy has calculated the capacity and equipment specifications for a pipeline CNG station at this location. The equipment specifications can be found in the Technical Feasibility section of the report; TAB VI.

I Street Paratransit Facility

The I Street Paratransit Facility operates a total of 62 Paratransit (gasoline) buses with 44 active and approximately 18 in reserve or maintenance. The 44 active buses currently fuel early in the morning prior to leaving on routes with an estimated fuel time of 6 to 7 minutes per bus. The average bus consumes approximately 20.2 gallons of fuel per day per bus and 37,508 gallons per month. The I Street fleet consumes 450,000 gallons of fuel per year and a staggering 10,229 gallons per year per bus. This is well above the industry averages (5,000 gallons) for a Paratransit bus.

Based on the fueling requirements outlined above, Clean Energy has calculated the capacity and equipment specifications for a pipeline CNG station at this location. The equipment specifications can be found in the Technical Feasibility section of the report; TAB VI.

TAB III Legal Feasibility

Scope of Work: Determine whether the fueling station conflicts with legal requirements, e.g. jurisdictional restrictions.

Clean Energy consulted with our internal legal and permitting departments regarding the installation of a pipeline CNG station at the OmniTrans fueling facilities. Clean Energy did not find any specific legal impediments preventing OmniTrans from moving forward with a pipeline CNG station.

OmniTrans management has requested the pipeline CNG station under consideration must meet the highest safety standards in the industry. Specific construction considerations, project development requirements and permitting issues will need to be addressed for each site considering the close proximity to residential housing and schools. Clean Energy recommends the following language for sound attenuation for the new pipeline CNG station.

Any and all design and implementation must comply with all applicable codes and standards for safety, fire, health and local requirements such as The National Fire Protection Agency Code 52 (NFPA52). This code covers the design, installation, operation, and maintenance of CNG and LNG fuel systems on all vehicle types--plus their respective compression, storage, and dispensing systems. This Code applies to all facilities with LNG storage in containers of 70,000 gallons or less.

The compressor skid including but not limited to, the dryer, inter-stage heat exchangers, pulsation vessels, blowdown vessels, liquid separation tanks, gauges and related piping and tubing shall be housed in a weatherproof and acoustically lined metal enclosure. The noise level immediately outside any point of the CNG station area (15 foot radius) shall be $< = 75$ dbA.

TAB IV Operational Feasibility

Scope of Work: Determine the impact of the fueling station on operational cost.

OmniTrans can reduce operating costs by utilizing pipeline CNG. Cumulative savings for each facility is described below and does not include the cost of capital. Clean Energy evaluated the cost OmniTrans is paying for delivered LNG per gallon and compared the data to the price OmniTrans would pay for pipeline CNG.

Clean Energy also compared the pipeline CNG cost for the I Street Paratransit fleet which uses gasoline. To make these comparisons equal Clean Energy converted the fuel prices to Gasoline Gallon Equivalents (GGE's). The table below illustrates the energy content in each fuel Clean Energy used to calculate the dollar values.

CONVERSION TABLE					
Measurement	BTU Content	mmbtu content	Therms	Multiplier to = DGE	Multiplier to = GGE
D.G.E.	139,000	0.139	1.39	n/a	1.112
G.G.E.	125,000	0.125	1.25	0.899 or /1.112	n/a
LNG Gallon	82,000	0.082	0.82	1.7	1.5

The table below illustrates the current cost(s) for pipeline CNG, LCNG (OmniTrans current fuel) & Gasoline. The savings per gallon for pipeline CNG compared to LCNG is approximately \$0.44 cents per GGE and approximately \$1.12 when compared to gasoline. Please note the commodity cost for pipeline CNG is much lower than LCNG due to the lower energy content per LNG gallon. However they both start with a base rate of \$4.06 per MMBTU. Please note that these prices are for fuel only and do not included the capital cost for stations.

Pipeline CNG		L/CNG		Gasoline	
Commodity Cost	\$ 0.5100	Commodity Cost	\$ 1.2800	Commodity Cost	\$ 2.2500
Electricity	\$ 0.2000	Electricity	\$ 0.1000	Electricity	\$ -
O&M	\$ 0.2500	O&M	\$ 0.1000	O&M	\$ -
Taxes	\$ 0.0100	Taxes	\$ 0.0100	Taxes	\$ -
SoCal Gas Transportation Rate	\$ 0.1624	CA Tax	\$ 0.0825		
Capital Cost (unknown)	\$ -	Capital Costs (zero)	\$ -	Capital Cost (unknown)	\$ -
Total Cost Pipeline CNG	\$ 1.1324	Total Cost L/CNG	\$ 1.5725	Total Cost Gasoline	\$ 2.2500

NOTES:

Pipeline CNG = So Cal Gas NGV1 rate Q4 2014 \$4.06 / 8 = \$0.51 cents per GGE

L/CNG = So Cal Gas rate \$4.06 / 12.1 + \$0.5168 = \$0.8523 x 1.5 (convert to GGE) = \$1.28 cost per L/CNG gallon converted to GGE

Gasoline - prices are at record lows. Industry experts expect prices to remain low until Q3 of 2015 when over supply is corrected.

East Valley Operations

The proposed pipeline CNG station can reduce operational costs for the East Valley facility by approximately \$760,000 per year. This costing model does not take into account capital costs. The cost of capital will need to be determined by OmniTrans. However for a complete cost model Clean Energy developed a lease option which can be found in Tab X. The cost of the East Valley pipeline CNG station is approximately \$2,294,906. Details of the station cost can be found in Tab VI.

East Valley	
Annual Fuel Volume	1,728,000
Pipeline CNG Fuel Savings (per gallon)	\$ 0.44
Annual Operational Budget Savings	\$ 760,320.00

West Valley Operations

The proposed pipeline CNG station can reduce operational costs for the West Valley facility by approximately \$464,000 per year. This costing model does not take into account capital costs. The cost of capital will need to be determined by OmniTrans. However for a complete cost model Clean Energy developed a lease option which can be found in Tab X. The cost of the West Valley pipeline CNG station is approximately \$1,708,362. Details of the station cost can be found in Tab VI.

West Valley		
Annual Fuel Volume		1,056,000
Pipeline CNG Fuel Savings (per gallon)	\$	0.44
Annual Operational Budget Savings	\$	464,640.00

Paratransit Operations

The proposed pipeline CNG station can reduce operational costs for the Paratransit fleet based at I Street, when the fleet is fully converted. This is a conservative estimate considering the price of gasoline is at a record low and as the United States cuts domestic production many industry experts expect the price of crude oil (gasoline) to dramatically climb toward the end of 2015. The savings for year one (1) will be approximately \$137,000 and growing depending on the number of CNG paratransit buses and the increasing cost of gasoline after 10 years. A detailed cost and benefit analysis can be found in Tab VI.

This costing model below does not take into account capital costs. The cost of capital will need to be determined by OmniTrans. However for a complete cost model Clean Energy developed a lease option which can be found in Tab X. The cost of the I Street Paratransit facility pipeline CNG station is approximately \$1,564,010. Details of the station cost can be found in Tab VI.

Paratransit Operations		
Annual Fuel Volume		122,748
Pipeline CNG Fuel Savings (per gallon)	\$	1.12
Annual Operational Budget Savings	\$	137,477.76

TAB V Economic Feasibility

Scope of Work: Determine the positive economic benefits to the organization that the proposed fueling station will provide, and include quantification and identification of all the benefits expected. This will include a cost/benefit analysis.

East Valley Operations

In order to properly evaluate the costs and benefits of installing a pipeline CNG station, Clean Energy has estimated the cost of capital for OmniTrans based on standard lease rate; seven (7) years with 4.25% interest. The installation of a pipeline CNG station for the East Valley facility will cost an estimated \$2.3 million or approximately \$0.20 cents per gallon. This cost is not included in the chart below.

In the table below Clean Energy uses the Henry Hub spot price as the index for the cost of Natural Gas per MMBTU. This index is commonly used in the natural gas industry for forecasting future commodity prices. Including capital costs, OmniTrans can realize potential savings in excess of \$500,000 per year in the first year and increasing to more than \$750,000 per year with savings more than \$7,000,000 over 10 years.

OmniTRANS ROI Forecast / East Valley Fleet										
Prices	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Natural Gas Prices										
Henry Hub Spot Price / highest baseline	\$4.06	\$4.16	\$4.26	\$4.36	\$4.46	\$4.57	\$4.68	\$4.79	\$4.91	\$5.03
Gasoline Gallon Equivalent Price	\$0.51	\$0.52	\$0.53	\$0.54	\$0.56	\$0.57	\$0.59	\$0.60	\$0.61	\$0.63
Capital Recovery is not included										
Station Maintenance 100% Parts / Labor	\$0.250	\$0.2500	\$0.2500	\$0.2500	\$0.2500	\$0.2500	\$0.2500	\$0.2500	\$0.2500	\$0.2500
Electricity & Communications	\$0.2000	\$0.2000	\$0.2000	\$0.2000	\$0.2000	\$0.2000	\$0.2000	\$0.2000	\$0.2000	\$0.2000
State Taxes (if applicable)	\$0.0100	\$0.0100	\$0.0100	\$0.0100	\$0.0100	\$0.0100	\$0.0100	\$0.0100	\$0.0100	\$0.0100
SoCal Gas Transportation rate	\$0.1624	\$0.1624	\$0.1624	\$0.1624	\$0.1624	\$0.1624	\$0.1624	\$0.1624	\$0.1624	\$0.1624
Total Price per GGE	\$1.1299	\$1.1421	\$1.1546	\$1.1673	\$1.1804	\$1.1938	\$1.2075	\$1.2216	\$1.2359	\$1.2507
LCNG cost/GGE (includes \$.0825 tas)	\$1.5725	\$1.5825	\$1.5925	\$1.6025	\$1.6225	\$1.6325	\$1.6525	\$1.6625	\$1.6725	\$1.6925
Cost Savings per Gallon (CNG vs. LCNG)	\$0.4426	\$0.4404	\$0.4379	\$0.4352	\$0.4421	\$0.4387	\$0.4450	\$0.4409	\$0.4366	\$0.4418
Total CNG Buses in Fleet	90	90	90	90	90	90	90	90	90	90
Total Annual Fuel Savings	\$501,717	\$761,046	\$756,774	\$751,984	\$763,945	\$758,084	\$768,947	\$761,961	\$754,393	\$763,509
Total Cumulative Fuel Savings	\$501,717	\$1,262,763	\$2,019,537	\$2,771,521	\$3,535,466	\$4,293,549	\$5,062,496	\$5,824,457	\$6,578,851	\$7,342,359
Annual LNG consumption per bus	19,200									
NOTES:										
90 Active Bus Fleet										
Fuel Savings are Cumulative										

West Valley Operations

The cost to install a pipeline CNG station at the West Valley facility will be an estimated \$1.7 million or \$0.30 cents per GGE. This cost is not included in the chart below. Savings of approximately \$467,000 in the first year and up to more than \$600,000 per year after 10 years for cumulative savings of more than \$4.8 million over 10 years.

OmniTrans ROI Forecast / West Valley Fleet										
Prices	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Natural Gas Prices										
Henry Hub Spot Price / highest baseline	\$4.06	\$4.16	\$4.26	\$4.36	\$4.46	\$4.57	\$4.68	\$4.79	\$4.91	\$5.03
Gasoline Gallon Equivalent Price	\$0.51	\$0.52	\$0.53	\$0.54	\$0.56	\$0.57	\$0.59	\$0.60	\$0.61	\$0.63
Capital Recovery is not included										
Station Maintenance 100% Parts / Labor	\$0.2500	\$0.2500	\$0.2500	\$0.2500	\$0.2500	\$0.2500	\$0.2500	\$0.2500	\$0.2500	\$0.2500
Electricity & Communications	\$0.2000	\$0.2000	\$0.2000	\$0.2000	\$0.2000	\$0.2000	\$0.2000	\$0.2000	\$0.2000	\$0.2000
State Taxes (if applicable)	\$0.0100	\$0.0100	\$0.0100	\$0.0100	\$0.0100	\$0.0100	\$0.0100	\$0.0100	\$0.0100	\$0.0100
SoCal Gas Transportation Rate	\$0.1624	\$0.1624	\$0.1624	\$0.1624	\$0.1624	\$0.1624	\$0.1624	\$0.1624	\$0.1624	\$0.1624
Total Price per GGE	\$1.1299	\$1.1421	\$1.1546	\$1.1673	\$1.1804	\$1.1938	\$1.2075	\$1.2216	\$1.2359	\$1.2507
L/CNG cost	\$1.5725	\$1.5825	\$1.5925	\$1.6025	\$1.6225	\$1.6325	\$1.6525	\$1.6625	\$1.6725	\$1.6925
Cost Savings per Gallon (CNG vs. Gas)	\$0.4426	\$0.4404	\$0.4379	\$0.4352	\$0.4421	\$0.4387	\$0.4450	\$0.4409	\$0.4366	\$0.4418
Total CNG Buses in Fleet	63	63	63	63	63	63	63	63	63	63
Total Annual Fuel Savings	\$467,386	\$465,084	\$462,473	\$459,546	\$466,855	\$463,273	\$469,912	\$465,643	\$461,018	\$466,589
Total Cumulative Fuel Savings	\$467,386	\$932,469	\$1,394,942	\$1,854,488	\$2,321,343	\$2,784,616	\$3,254,528	\$3,720,171	\$4,181,189	\$4,647,778
Annual Fuel Consumption (per bus)	16,762									
NOTES:										
63 Active Bus Fleet										
Fuel Savings are Cumulative										

Paratransit Operations

The cost to install a pipeline CNG station at the I Street Paratransit facility will be an estimated \$1.5 million or \$0.65 cents per GGE. The capital cost is not included in the chart below. The operational savings increase every year as OmniTrans adds more CNG Paratransit buses to the fleet. Savings in year one are estimated at \$137,000 and increases annually as paratransit buses are added and depending on the price of gasoline estimated below, savings could increase to more than \$800,000 per year once the entire fleet is CNG provided the price of gasoline increases as indicated in the chart over the next 10 years and up to more than \$6 million total.

OmniTrans ROI Forecast / Paratransit Fleet										
Prices	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Natural Gas Prices										
Henry Hub Spot Price / highest baseline	\$4.06	\$4.16	\$4.26	\$4.36	\$4.46	\$4.57	\$4.68	\$4.79	\$4.91	\$5.03
Gasoline Gallon Equivalent Price	\$0.51	\$0.52	\$0.53	\$0.54	\$0.56	\$0.57	\$0.59	\$0.60	\$0.61	\$0.63
Capital Recovery is not included										
Station Maintenance 100% Parts / Labor	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25
Electricity & Communications	\$0.20	\$0.20	\$0.20	\$0.20	\$0.20	\$0.20	\$0.20	\$0.20	\$0.20	\$0.20
State Taxes (if applicable)	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01
SoCal Gas Transportation Rate	\$0.16	\$0.16	\$0.16	\$0.16	\$0.16	\$0.16	\$0.16	\$0.16	\$0.16	\$0.16
Total Price per GGE	\$1.13	\$1.14	\$1.15	\$1.17	\$1.18	\$1.19	\$1.21	\$1.22	\$1.24	\$1.25
EIA Gasoline Price / lowest baseline	\$2.25	\$2.35	\$2.45	\$2.55	\$2.65	\$2.75	\$2.85	\$2.95	\$3.05	\$3.15
Cost Savings per Gallon (CNG vs. Gas)	\$1.12	\$1.29	\$1.38	\$1.47	\$1.55	\$1.64	\$1.72	\$1.81	\$1.90	\$1.90
Total CNG Buses in Fleet	12	24	36	44	44	44	44	44	44	44
Total Annual Fuel Savings	\$137,490	\$316,793	\$507,421	\$659,441	\$698,562	\$737,542	\$776,378	\$815,065	\$853,601	\$854,850
Total Cumulative Fuel Savings	\$137,490	\$454,283	\$961,704	\$1,621,145	\$2,319,707	\$3,057,249	\$3,833,626	\$4,648,691	\$5,502,292	\$6,357,142
Annual Fuel Consumption (per bus)	10,229									
NOTES:										
110 Unit Paratransit Fleet										
Fuel Savings are Cumulative										

Economic Considerations

- OmniTrans has faced challenges from the surrounding neighborhood regarding the storage of LNG on East Valley property. Pipeline CNG will render the current storage tanks unnecessary and they can be removed from the site.
- Some of the current OmniTrans LCNG assets are more valuable in place. Removing the storage tanks without a clear buyer may diminish the value. Clean Energy recommends keeping some assets in place until a suitable buyer can be found who will remove the equipment as part of the sale requirements from OmniTrans. Please note that for purposes of this evaluation, Clean Energy valued the existing assets at \$0.00. The LCNG assets do have market value and the sale of such assets could be used to offset the cost of installing a pipeline CNG station. The LCNG assets are needed until the new station is operational and therefore proceeds of sale were not considered in this evaluation.
- OmniTrans can source Renewable Natural Gas (RNG) derived from landfills and waste treatment facilities. RNG is the cleanest transportation fuel in the world and available to OmniTrans through a pipeline CNG program. RNG is typically more expensive than traditional pipeline natural gas because of the intense processes to capture, extract, and process and purify. It can be considerably less than gasoline or diesel. Clean Energy has a RNG program specifically for our customers and we would work directly with OmniTrans to provide specific pricing at the time of interest.
- Fuel Security – Pipeline CNG offers OmniTrans direct access to the pipeline without reliance on fuel deliveries and storage capacity.
- Fuel Security Consideration – Should there be a disruption in pipeline CNG OmniTrans would be out of fuel and would need an alternate fueling strategy. LNG offers OmniTrans with supply in the event of a pipeline disruption.
- Evaporation – LNG evaporates if not used. Pipeline CNG is always available and only invoiced when pulled into the CNG fueling system as metered by the gas utility.

- (g) The CNG compression equipment selected for OmniTrans will have multiple Methane Detection Sensors (MDS) inside the skid enclosures. This ensures the system will automatically shut down in the event of a leak preventing unwanted odors.
- (h) The raw commodity costs for LCNG and CNG are identical. The savings on pipeline CNG come into play when considering the liquefaction and delivery costs of LNG.
- (i) Pipeline CNG is more expensive equipment to maintain compared to LCNG.
- (j) LNG is cleaner burning compared to pipeline CNG. OmniTrans will experience higher maintenance frequencies changing High Pressure (HP) and Low Pressure (LP) filters on the buses. Pipeline CNG has Non Gaseous Liquids (NGL's) that can plug up filters. OmniTrans maintenance staff will have to monitor the HP and LP filters to determine exact inspection frequency when switching over to pipeline CNG.

TAB VI Technical Feasibility

Scope of Work: Determine the present technical resources of OmniTrans and the applicability to the expected needs of the fueling station. This requires an evaluation of the hardware and software and its compatibility with the requirements of a fueling station.

The equipment (hardware) and program (software) specification requirements for the proposed fueling stations are outlined in the tables below. Clean Energy evaluated the LCNG fueling assets at the East and West Valley operations and identified equipment that can be used in the new pipeline CNG station. Clean Energy incorporated the value engineering opportunities (savings) into the revised pricing formula.

Term	Definition
MSA	Meter Set Assembly (MSA) refers to the metering equipment installed by the utility connecting the outside gas line to OmniTrans property
SCFM	Standard Cubic Feet per Minute (SCFM) refers to the amount of fuel (gallons) measured in cubic feet per minute flowing through a meter.

Clean Energy contacted the Southern California Gas Company regarding the gas pressure available at all three sites. The "Preliminary Site Evaluations" from SoCal Gas are included as a separate attachment for each of the three facilities.

East Valley Operations

The SCFM calculated for this site is 2140 SCFM or 1070 gallons per hour. One bus fueling 45.9 gallons will take less than three minutes to fill and two buses (91.8 gallons) will fuel in less than six (6) minutes. The Table below details the specific equipment required to meet OmniTrans fuel demands.

East Valley Equipment Configuration:

OmniTrans East Valley

General \$ 1,117,668

Site Work

Concrete

Metals

Specialties

Equipment

Mechanical

Electrical

Switch gear 1600A with kirk key and surge protection

Tie into existing Fleet Watch Fuel Management System

Tie discharge lines from compressors into existing carbon steel from the LCNG system

Provide a kirk key in with gear for a generator (generator not included)

No additional paving is included - only for back-filling/trenching

Misc. Fees

Engineering and Permitting Costs \$ 168,018

Engineering and design and consulting

Programming

Site Survey

Permitting - does not include actual cost of permits

Equipment Scope

2 x twin 250 hp IMW compressor packages

Reuse existing priority panel

1 x PSB dryer (21-6)

Reuse existing storage vessels

Reuse existing AGNI dispensers

1 x fuel support panel

4 x filters

1 x defueling panel

Total IMW equipment \$ 818,904

Total non-IMW equipment \$ 90,350

Freight (could vary) \$ 13,718

Project Admin/Overhead/Insurance/Start-up \$ 86,248

Total East Valley CNG Project Installation \$ 2,294,906

West Valley Operations

The SCFM calculated for this site is 1070 SCFM or 535 gallons per hour. One bus fueling will take less than six minutes to fill and two buses will fuel in approximately eleven minutes. The Table below details the specific equipment required to meet OmniTrans fuel demands.

West Valley Equipment Configuration:

OmniTrans West Valley

General	\$ 893,809
Site Work	
Concrete	
Metals	
Specialties	
Equipment	
Mechanical	
Electrical	
Switch Gear	1600A with kirk key and surge protection
Tie into existing Fleet Watch Fuel Management System	
Tie discharge lines from compressors into existing carbon steel from the LCNG system	
Provide a kirk key in with gear for a generator (generator not included)	
No additional paving is included - only for back-filling/trenching	
Misc. Fees	

Engineering and Permitting Costs	\$ 122,400
Engineering and Design	
Engineering Consultant	
Programming	
Site Survey	
Permitting - does not include actual cost of permits	
Total Engineering & Permitting	

Equipment Scope

1 x twin 300 hp IMW compressor package	
1 x priority panel	
1 x PSB dryer (21-4)	
2 x single hose transit dispensers	
1 x fuel support panel	
Reuse existing storage vessels	
2 x filters	
1 x defueling panel	
Fuel Support Panel	
Total IMW Equipment	\$ 432,710
Total Non-IMW Equipment	\$ 188,769
Freight (could vary)	\$ 7,963
Project Admin/Overhead/Insurance/Start-up	\$ 62,711
Total East Valley CNG Project Installation	<u>\$ 1,708,362</u>

I Street Paratransit Operations

The SCFM calculated for this site is 526 SCFM or 263 gallons per hour. One bus will take less than five minutes to fuel. The Table below details the specific equipment required to meet OmniTrans fuel demands.

I Street Equipment Configuration:

OmniTrans I Street

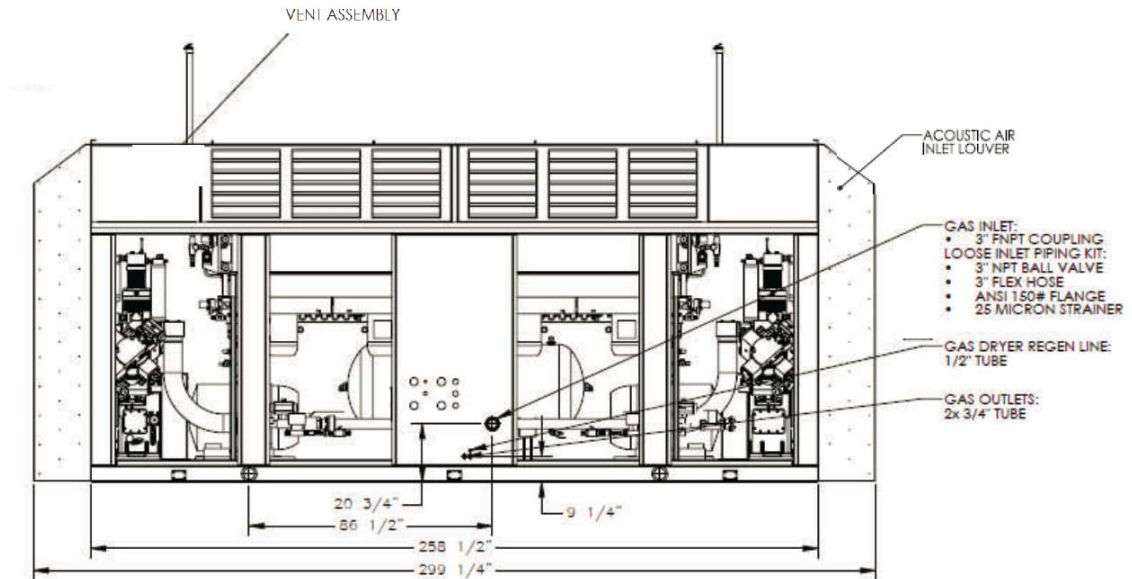
General	\$ 895,688
Site Work	
Concrete	
Metals	
Specialties	
Equipment	
Mechanical	
Electrical	
Switch Gear	1600A with kirk key and surge protection
Tie into existing Fleet Watch Fuel Management System	
Tie discharge lines from compressors into existing carbon steel from the LCNG system	
Provide a kirk key in with gear for a generator (generator not included)	
No additional paving is included - only for back-filling/trenching	
Misc. Fees	

Engineering and Permitting Costs	\$ 117,655
Engineering and Design	
Engineering Consultant	
Programming	
Site Survey	
Permitting - does not include actual cost of permits	
Total Engineering & Permitting	

Equipment Scope

1 x twin 150 hp IMW compressor package	
1 x priority panel	
1 x ASME storage vessel	
1 x single hose light duty dispenser	
1 x fuel support panel	
Reuse existing storage vessels	
2 x filters	
Total IMW Equipment	\$ 352,146
Total Non-IMW Equipment	\$ 132,519
Freight (could vary)	\$ 10,969
Project Admin/Overhead/Insurance/Start-up	\$ 55,033
Total East Valley CNG Project Installation	<u>\$ 1,564,010</u>

IMW equipment is specifically designed for the CNG vehicle fueling market. The compression chamber is oil free which provides the highest quality CNG in the industry. Clean Energy chose this equipment specifically for OmniTrans to reduce oil carryover into the buses. OmniTrans uses LNG to produce CNG thus avoiding Non Gaseous Liquids (NGL's) and oil in the pipeline natural gas fuel stream. Pipeline CNG is not as clean as LNG and therefore Clean Energy has selected IMW non-lubricated compressors for OmniTrans evaluation.



Transit Stations in Southern CA with IMW Equipment

LA Department of Transportation



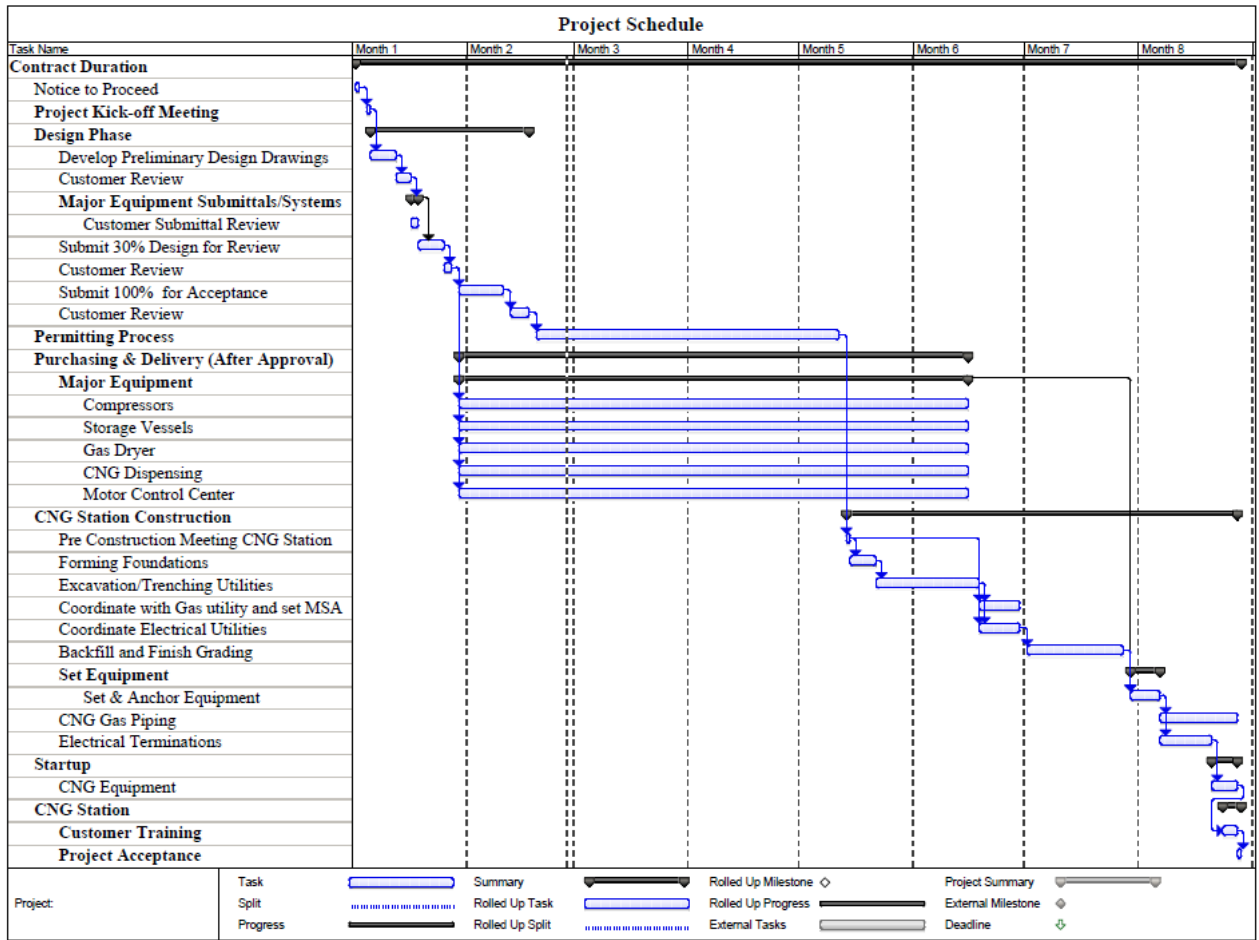
The City of Torrance



TAB VII Schedule Feasibility

Scope of Work: Estimate the time necessary to complete construction of a fueling station that meets or exceeds the fuel requirements of OmniTrans.

Clean Energy estimates each project will take approximately eight (8) to twelve (12) months to engineer, design and build. The project schedule below illustrates the estimated timeline for each of the critical steps from design to startup and commissioning of a CNG station.



TAB VIII Market and Real Estate Feasibility

Evaluate OmniTrans' parcels for the best location for fueling station.

Clean Energy met with the OmniTrans' management team to evaluate site layouts and discussed the accommodation of the proposed CNG equipment and specific site improvements. The East Valley, West Valley and I Street facilities can easily accommodate installation and operation of CNG facilities within the existing footprints and at the same time, mitigate any noise, odor and/or operational concerns.

Additional property will not be required to install the proposed pipeline CNG infrastructure. The existing properties operated by OmniTrans have sufficient capacity to support current fueling operations and allow for the construction of new pipeline CNG systems. The following Conceptual Plans (CP) indicates the proposed equipment location for each facility.

CONCEPTUAL LAYOUT

OMNITRANS - EAST VALLEY

1700 West 5th Street, San Bernardino, CA 92411

SCALE: 1"=80'

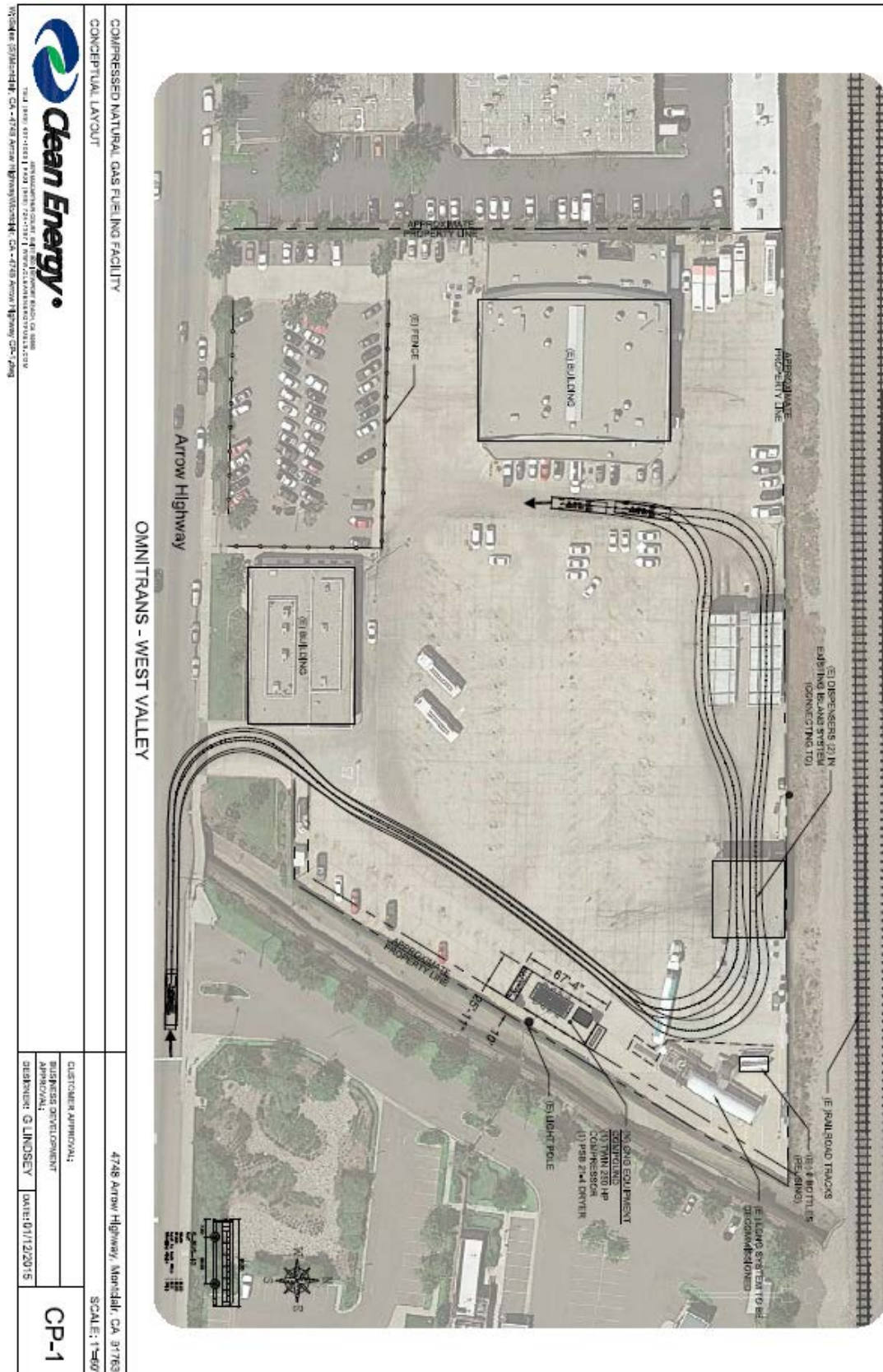
CUSTOMER APPROVAL:

BUSINESS DEVELOPMENT APPROVAL:

DESIGNER: HV Tran DATE: 01/27/2015

CP-1

West Valley Facility



[illegible]

TAB IX Resource Feasibility

Scope of Work: Evaluate the local utility's supply of natural gas and OmniTrans' requirement for bus fueling. Determine if construction of the fueling station will interfere with current day-to-day operations.

Clean Energy consulted with SoCal Gas Company to confirm adequate gas pressure and gas volume is available at each of the three sites; East Valley, West Valley and I Street. It was initially determined that a minimum of 25 psig is available at the meter set assembly (MSA) at each location. 25 psig will support the operation of the compression packages proposed for each location and will also support the flow/volume of gas needed to fuel buses within the necessary fueling windows. Higher gas pressure may ultimately be available but cannot be confirmed until a complete engineering analysis has been finalized by SoCal Gas. The SoCal Gas engineering estimate will follow the actual application for gas service, by OmniTrans.

To ensure uninterrupted service it is recommended OmniTrans adopt the following minimum requirements in any future solicitation:

- Quality Control Plan / Manual for project
- Health and Safety plans
- Install sound attenuation walls along perimeter of property near CNG station
- Require 24/7/365 monitoring by trained personal
- Emergency Response Plan
- Services/work that requires any interruption in gas or electric supply will be conducted during off-peak times for OmniTrans – exact hours to be established during installation
- Advise/work with OmniTrans with daily plans, goals and updates to minimize disruptions
- Require GENSET power during switch over to pipeline CNG station testing

PURPOSE OF THE FORM

To assist potential builders, owners and operators of Natural Gas Vehicle (NGV) refueling stations in understanding the preliminary gas service options currently available for various load scenarios at a specific site within the service territory of the Southern California Gas Company (SoCalGas®).

Customer Notices

- SoCalGas does not guarantee a minimum delivery pressure. Any changes in delivery pressure that impact customer operations are the responsibility of the customer.
- The SoCalGas pipeline system is dynamic and operational conditions can change. Information provided in the NGV Preliminary Site Evaluation Form is only valid for six months from the date the NGV Preliminary Site Evaluation Form is provided to the customer.
- The NGV Preliminary Site Evaluation should only be used to assist with preliminary project assessment. Customer gas equipment specifications or purchases should not be finalized based on information provided in the NGV Preliminary Site Evaluation Form. Any purchases of equipment shall be at the customer's own risk, and SoCalGas shall not be responsible for customer's gas equipment specifications or purchases.
- Customer gas equipment specifications or purchases can be finalized after submitting a "Request for Non-Residential Gas Facilities" (Form 5) and subsequently receiving, signing and returning a SoCalGas "Pressure Letter". The Pressure Letter information is only valid for one year from the date of the Pressure Letter. SoCalGas will proceed with service construction once the customer receives, signs and returns a "Line Extension Contract" and payment (if necessary).
- SoCalGas' determination of the source and method of gas service shall be in accordance with all applicable SoCalGas tariffs and California Public Utilities Commission rules and regulations.
- The NGV Preliminary Site Evaluation Form must be requested by the legal owner of the premises, or accompanied by written permission granted by the legal owner of the premises to the requestor.
- There is no cost for the initial analysis provided in the NGV Preliminary Site Evaluation Form. The initial analysis may consist of up to four scenarios. Customer may request additional analysis which may be subject to an additional charge. Please see your account executive for details.

(Continued inside)

SECTION 1: COMPLETED BY THE CUSTOMER

Name of Requesting Organization Clean Energy		Date January 14, 2015		
Address of Requesting Organization 4675 MacArthur Court		ZIP Code 92660		
Key Contact Name Sylvia Hendron				
Key Contact Telephone Number 949-437-9032				
Key Contact Email Address Sylvia.Hendron@cleanenergyfuels.com				
Name of End User Organization OmniTrans				
NGV Station Property Address ¹ 1700 West 5 th Street, San Bernardino		ZIP Code 92411		
Closest Intersection or Cross Street West 5 th Street				
	Scenario #1	Scenario #2	Scenario #3	Scenario #4
Maximum Flow Capacity Required, in standard cubic feet per minute (scfm):	1500	1750	2000	2500
Compressor Type:	<input type="checkbox"/> Electric Driven <u>or</u> <input type="checkbox"/> Natural Gas Driven			
If compressor is natural gas-driven, provide natural gas engine maximum fuel consumption, in scfm:				
Potential for Future Growth?	<input type="checkbox"/> Yes <u>or</u> <input checked="" type="checkbox"/> No <i>If Yes, provide detail (capacity in scfm and future year) in the "Comments" section below.</i>			
Comments: Click here to enter text.				

¹ A plot plan of the property should be provided with the location of the NGV refueling station, adjacent roads and desired gas meter location to avoid errors and delays.

SECTION 2: COMPLETED BY SOCALGAS

		Scenario #1	Scenario #2	Scenario #3	Scenario #4
Pressure District or Supply Line #:		SL 41-27	SL 41-27	SL 41-27	SL 41-27
Maximum Flow Capacity (scfm):		1500	1750	2000	2500
Estimated Inlet Pressure at Meter Set Assembly (MSA) (psig):	Minimum	100	101	100	98
	Winter	100	101	100	98
	Summer	104	106	105	103
Design Maximum Inlet Pressure at MSA (psig):		110	110	110	110
Estimated Outlet Pressure at MSA – Minimum (psig):		86	84	77	80
Estimated Service Diameter (inches) and Length (feet):		200 feet of 3" steel service	200 feet of 4" steel service	200 feet of 4" steel service	200 feet of 4" steel service
Estimated Main Diameter (inches) and Length (feet):		n/a	n/a	n/a	n/a
Comments:		Click here to enter text.	Click here to enter text.	Click here to enter text.	Click here to enter text.
Engineer Performing Review:		Nicole Cartwright			
Account Executive:		Click here to enter text.			
Account Executive Telephone Number:		Click here to enter text.			
Account Executive Email Address:		Click here to enter text.			
Date Received from Customer:		Click here to enter text.			
Date Returned to Customer:		Click here to enter text.			

(Continued on back)



NGV PRELIMINARY SITE EVALUATION FORM



PURPOSE OF THE FORM

To assist potential builders, owners and operators of Natural Gas Vehicle (NGV) refueling stations in understanding the preliminary gas service options currently available for various load scenarios at a specific site within the service territory of the Southern California Gas Company (SoCalGas®).

Customer Notices

- SoCalGas does not guarantee a minimum delivery pressure. Any changes in delivery pressure that impact customer operations are the responsibility of the customer.
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(Continued inside)

SECTION 1: COMPLETED BY THE CUSTOMER

Name of Requesting Organization Clean Energy		Date January 14, 2015		
Address of Requesting Organization 4675 MacArthur Court		ZIP Code 92660		
Key Contact Name Sylvia Hendron				
Key Contact Telephone Number 949-437-9032				
Key Contact Email Address Sylvia.Hendron@cleanenergyfuels.com				
Name of End User Organization OmniTrans				
NGV Station Property Address ¹ 4748 Arrow Highway, Montclair, CA			ZIP Code 91763	
Closest Intersection or Cross Street Arrow Highway				
	Scenario #1	Scenario #2	Scenario #3	Scenario #4
Maximum Flow Capacity Required, in standard cubic feet per minute (scfm):	1000	1250	1500	1800
Compressor Type:	<input type="checkbox"/> Electric Driven <u>or</u> <input type="checkbox"/> Natural Gas Driven			
If compressor is natural gas-driven, provide natural gas engine maximum fuel consumption, in scfm:				
Potential for Future Growth?	<input type="checkbox"/> Yes <u>or</u> <input checked="" type="checkbox"/> No <i>If Yes, provide detail (capacity in scfm and future year) in the "Comments" section below.</i>			
Comments: Click here to enter text.				

¹ A plot plan of the property should be provided with the location of the NGV refueling station, adjacent roads and desired gas meter location to avoid errors and delays.

SECTION 2: COMPLETED BY SOCALGAS

		Scenario #1	Scenario #2	Scenario #3	Scenario #4
Pressure District or Supply Line #:		41-34-A	41-34-A	41-34-A	41-34-A
Maximum Flow Capacity (scfm):		1000	1250	1500	1800
Estimated Inlet Pressure at Meter Set Assembly (MSA) (psig):	Minimum	198	197	195	194
	Winter	198	197	195	194
	Summer	223	222	221	220
Design Maximum Inlet Pressure at MSA (psig):		230	230	230	230
Estimated Outlet Pressure at MSA – Minimum (psig):		177	177	167	175
Estimated Service Diameter (inches) and Length (feet):		Reinstate, the previously abandoned 485 feet of 3" Steel service, it is sufficient	Reinstate, the previously abandoned 485 feet of 3" Steel service, it is sufficient	Reinstate, the previously abandoned 485 feet of 3" Steel service, it is sufficient	Reinstate, the previously abandoned 485 feet of 3" Steel service , it is sufficient
Estimated Main Diameter (inches) and Length (feet):		n/a	n/a	n/a	n/a
Comments:		Reinstate, the previously abandoned 485 feet of 3" Steel service, it is sufficient to provide 1000 scfm	Reinstate, the previously abandoned 485 feet of 3" Steel service, it is sufficient to provide 1250 scfm	Reinstate, the previously abandoned 485 feet of 3" Steel service, it is sufficient to provide 1500 scfm	Reinstate, the previously abandoned 485 feet of 3" Steel service, it is sufficient to provide 1800 scfm
Engineer Performing Review:		Edgar Muller			
Account Executive:		Click here to enter text.			
Account Executive Telephone Number:		Click here to enter text.			
Account Executive Email Address:		Click here to enter text.			
Date Received from Customer:		Click here to enter text.			
Date Returned to Customer:		Click here to enter text.			

PURPOSE OF THE FORM

To assist potential builders, owners and operators of Natural Gas Vehicle (NGV) refueling stations in understanding the preliminary gas service options currently available for various load scenarios at a specific site within the service territory of the Southern California Gas Company (SoCalGas®).

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(Continued inside)

SECTION 1: COMPLETED BY THE CUSTOMER

Name of Requesting Organization Clean Energy		Date January 14, 2015		
Address of Requesting Organization 4675 MacArthur Court		ZIP Code 92660		
Key Contact Name Sylvia Hendron				
Key Contact Telephone Number 949-437-9032				
Key Contact Email Address Sylvia.Hendron@cleanenergyfuels.com				
Name of End User Organization OmniTrans				
NGV Station Property Address ¹ 234 South I Street, San Bernardino		ZIP Code 92410		
Closest Intersection or Cross Street South I Street				
	Scenario #1	Scenario #2	Scenario #3	Scenario #4
Maximum Flow Capacity Required, in standard cubic feet per minute (scfm):	500	750	1000	1250
Compressor Type:	<input type="checkbox"/> Electric Driven <u>or</u> <input type="checkbox"/> Natural Gas Driven			
If compressor is natural gas-driven, provide natural gas engine maximum fuel consumption, in scfm:				
Potential for Future Growth?	<input type="checkbox"/> Yes <u>or</u> <input checked="" type="checkbox"/> No <i>If Yes, provide detail (capacity in scfm and future year) in the "Comments" section below.</i>			
Comments: Click here to enter text.				

¹ A plot plan of the property should be provided with the location of the NGV refueling station, adjacent roads and desired gas meter location to avoid errors and delays.

SECTION 2: COMPLETED BY SOCALGAS

		Scenario #1	Scenario #2	Scenario #3	Scenario #4
Pressure District or Supply Line #:		41032	41032	41032	41032
Maximum Flow Capacity (scfm):		500	750	1000	1250
Estimated Inlet Pressure at Meter Set Assembly (MSA) (psig):	Minimum	27	29	31	28
	Winter	27	29	32	28
	Summer	35	36	38	35
Design Maximum Inlet Pressure at MSA (psig):		45	45	45	45
Estimated Outlet Pressure at MSA – Minimum (psig):		16	22	22	21
Estimated Service Diameter (inches) and Length (feet):		325 feet of 3" PE service	325 feet of 4" PE service	325 feet of 4" PE service	325 feet of 6" PE service
Estimated Main Diameter (inches) and Length (feet):		n/a	n/a	n/a	n/a
Comments:		Approx. 250 feet of main will need to be installed across a wash in order to serve this customer	Approx. 1625 feet of main will need to be installed/ upsized in order to serve this customer	Approx. 1625 feet of main will need to be installed/ upsized in order to serve this customer	Approx. 1625 feet of main will need to be installed/ upsized in order to serve this customer
Engineer Performing Review:		Nicole Cartwright			
Account Executive:		Click here to enter text.			
Account Executive Telephone Number:		Click here to enter text.			
Account Executive Email Address:		Click here to enter text.			
Date Received from Customer:		Click here to enter text.			
Date Returned to Customer:		Click here to enter text.			

(Continued on back)



NGV PRELIMINARY SITE EVALUATION FORM



PURPOSE OF THE FORM

To assist potential builders, owners and operators of Natural Gas Vehicle (NGV) refueling stations in understanding the preliminary gas service options currently available for various load scenarios at a specific site within the service territory of the Southern California Gas Company (SoCalGas®).

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(Continued inside)

SECTION 1: COMPLETED BY THE CUSTOMER

Name of Requesting Organization Clean Energy		Date January 14, 2015		
Address of Requesting Organization 4675 MacArthur Court		ZIP Code 92660		
Key Contact Name Sylvia Hendron				
Key Contact Telephone Number 949-437-9032				
Key Contact Email Address Sylvia.Hendron@cleanenergyfuels.com				
Name of End User Organization OmniTrans				
NGV Station Property Address ¹ 9421 Feron Blvd, Rancho Cucamonga, CA		ZIP Code 91730		
Closest Intersection or Cross Street Feron Blvd				
	Scenario #1	Scenario #2	Scenario #3	Scenario #4
Maximum Flow Capacity Required, in standard cubic feet per minute (scfm):	500	750	1000	1250
Compressor Type:	<input type="checkbox"/> Electric Driven <u>or</u> <input type="checkbox"/> Natural Gas Driven			
If compressor is natural gas-driven, provide natural gas engine maximum fuel consumption, in scfm:				
Potential for Future Growth?	<input type="checkbox"/> Yes <u>or</u> <input checked="" type="checkbox"/> No <i>If Yes, provide detail (capacity in scfm and future year) in the "Comments" section below.</i>			
Comments: Click here to enter text.				

¹ A plot plan of the property should be provided with the location of the NGV refueling station, adjacent roads and desired gas meter location to avoid errors and delays.

SECTION 2: COMPLETED BY SOCALGAS

		Scenario #1	Scenario #2	Scenario #3	Scenario #4
Pressure District or Supply Line #:		41062	41062	41062	41062
Maximum Flow Capacity (scfm):		500	750	1000	1250
Estimated Inlet Pressure at Meter Set Assembly (MSA) (psig):	Minimum	34	27	32	29
	Winter	34	27	33	29
	Summer	37	30	36	32
Design Maximum Inlet Pressure at MSA (psig):		45	45	45	45
Estimated Outlet Pressure at MSA – Minimum (psig):		24	16	23	22
Estimated Service Diameter (inches) and Length (feet):		Approx. 350 feet of 3" PE service	Approx. 350 feet of 4" PE service	Approx. 350 feet of 4" PE service	Approx. 350 feet of 6" PE service
Estimated Main Diameter (inches) and Length (feet):		n/a	n/a	n/a	n/a
Comments:		Approx. 1225 feet of 2" PE main will need to be upsized to minimum 3" PE main	Approx. 1225 feet of 2" PE main will need to be upsized to minimum 3" & 4" PE main	Approx. 1975 feet of 2" & 3" main will need to be upsized to minimum 4" PE main	Approx. 1975 feet of 2" & 3" main will need to be upsized to minimum 4" & 6" PE main
Engineer Performing Review:		Nicole Cartwright			
Account Executive:		Click here to enter text.			
Account Executive Telephone Number:		Click here to enter text.			
Account Executive Email Address:		Click here to enter text.			
Date Received from Customer:		Click here to enter text.			
Date Returned to Customer:		Click here to enter text.			

(Continued on back)

TAB X Financial Feasibility

Scope of Work: Evaluate the fueling station financial viability on the total estimated cost of the fueling station, including existing land and/or equipment and details of land and/or equipment to be purchased.

Based on estimated annual savings of \$760k at East Valley and \$460k at West Valley and \$137k at the Paratransit site (total = \$1,350,000) OmniTrans can reduce fuel expenditures by an estimated \$13,500,000 million over the next ten (10) years by switching to pipeline CNG. This figure does not include the cost to design, build, operate, maintain and finance three (3) private pipeline CNG stations to serve both the fixed route and Paratransit fleets. Details of these projected savings are detailed in the tabs above.



Clean Energy[®]

OmniTrans

Pipeline CNG Feasibility Study Review

Agenda



- Site Summaries
- Legal Feasibility
- Operational Feasibility
- Economic Feasibility
- Technical Feasibility
- Schedule Feasibility
- Market & Real Estate Feasibility
- Resource Feasibility
- Financial Feasibility

Site Summaries

- East Valley – 118 bus fleet – 90 active – 2 x 30,000 LNG tanks – secure 11 days fuel storage – average bus 45.9 GGE day
- West Valley – 63 bus fleet – 54 active – 2 x 30,000 LNG tanks – secure 20 days fuel storage – average bus 47.5 GGE day
- I Street Paratransit Fleet – 62 bus fleet – 44 active – average bus 20.2 GGE per day – total fuel volume 450,000 gallons per year

Legal Feasibility

- Clean Energy consulted with our internal legal and permitting departments regarding the installation of a pipeline CNG station at the OmniTrans fueling facilities. Clean Energy did not find any specific legal impediments preventing OmniTrans from moving forward with a pipeline CNG station.
- Any and all design and implementation must comply with all applicable codes and standards for safety, fire, health and local requirements such as The National Fire Protection Agency Code 52 (NFPA52). This code covers the design, installation, operation, and maintenance of CNG and LNG fuel systems on all vehicle types plus their respective compression, storage, and dispensing systems.

Operational Feasibility

Pipeline CNG		L/CNG		Gasoline	
Commodity Cost	\$ 0.5100	Commodity Cost	\$ 1.2800	Commodity Cost	\$ 2.2500
Electricity	\$ 0.2000	Electricity	\$ 0.1000	Electricity	\$ -
O&M	\$ 0.2500	O&M	\$ 0.1000	O&M	\$ -
Taxes	\$ 0.0100	Taxes	\$ 0.0100	Taxes	\$ -
SoCal Gas Transportation Rate	\$ 0.1624	CA Tax	\$ 0.0825		
Capital Cost (unknown)	\$ -	Capital Costs (zero)	\$ -	Capital Cost (unknown)	\$ -
Total Cost Pipeline CNG	\$ 1.1324	Total Cost L/CNG	\$ 1.5725	Total Cost Gasoline	\$ 2.2500

NOTES:

Pipeline CNG = So Cal Gas NGV1 rate Q4 2014 \$4.06 / 8 = \$0.51 cents per GGE

L/CNG = So Cal Gas rate \$4.06 / 12.1 + \$0.5168 = \$0.8523 x 1.5 (convert to GGE) = \$1.28 cost per L/CNG gallon converted to GGE

Gasoline - prices are at record lows. Industry experts expect prices to remain low until Q3 of 2015 when over supply is corrected.

The savings per gallon for pipeline CNG compared to LCNG is approximately \$0.44 cents per GGE and approximately \$1.12 when compared to gasoline. Please note the commodity cost for pipeline CNG is much lower than LCNG due to the lower energy content per LNG gallon. However they both start with a base rate of \$4.06 per MMBTU

Operational Feasibility

East Valley

Annual Fuel Volume	1,728,000
Pipeline CNG Fuel Savings (per gallon)	\$ 0.44
Annual Operational Budget Savings	\$ 760,320.00

West Valley

Annual Fuel Volume	1,056,000
Pipeline CNG Fuel Savings (per gallon)	\$ 0.44
Annual Operational Budget Savings	\$ 464,640.00

Paratransit Operations

Annual Fuel Volume	122,748
Pipeline CNG Fuel Savings (per gallon)	\$ 1.12
Annual Operational Budget Savings	\$ 137,477.76

Economic Feasibility / East Valley

Omnitrans ROI Forecast / East Valley Fleet

Omnitrans ROI Forecast / East Valley Fleet										
Prices	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Natural Gas Prices										
Henry Hub Spot Price / highest baseline	\$4.06	\$4.16	\$4.26	\$4.36	\$4.46	\$4.57	\$4.68	\$4.79	\$4.91	\$5.03
Gasoline Gallon Equivalent Price	\$0.51	\$0.52	\$0.53	\$0.54	\$0.56	\$0.57	\$0.59	\$0.60	\$0.61	\$0.63
Capital Recovery is not included										
Station Maintenance 100% Parts / Labor	\$0.250	\$0.2500	\$0.2500	\$0.2500	\$0.2500	\$0.2500	\$0.2500	\$0.2500	\$0.2500	\$0.2500
Electricity & Communications	\$0.2000	\$0.2000	\$0.2000	\$0.2000	\$0.2000	\$0.2000	\$0.2000	\$0.2000	\$0.2000	\$0.2000
State Taxes (if applicable)	\$0.0100	\$0.0100	\$0.0100	\$0.0100	\$0.0100	\$0.0100	\$0.0100	\$0.0100	\$0.0100	\$0.0100
SoCal Gas Transportation rate	\$0.1624	\$0.1624	\$0.1624	\$0.1624	\$0.1624	\$0.1624	\$0.1624	\$0.1624	\$0.1624	\$0.1624
Total Price per GGE	\$1.1299	\$1.1421	\$1.1546	\$1.1673	\$1.1804	\$1.1938	\$1.2075	\$1.2216	\$1.2359	\$1.2507
LCNG cost/GGE (includes \$.0825 tas)	\$1.5725	\$1.5825	\$1.5925	\$1.6025	\$1.6225	\$1.6325	\$1.6525	\$1.6625	\$1.6725	\$1.6925
Cost Savings per Gallon (CNG vs. LCNG)	\$0.4426	\$0.4404	\$0.4379	\$0.4352	\$0.4421	\$0.4387	\$0.4450	\$0.4409	\$0.4366	\$0.4418
Total CNG Buses in Fleet	90	90	90	90	90	90	90	90	90	90
Total Annual Fuel Savings	\$501,717	\$761,046	\$756,774	\$751,984	\$763,945	\$758,084	\$768,947	\$761,961	\$754,393	\$763,509
Total Cumulative Fuel Savings	\$501,717	\$1,262,763	\$2,019,537	\$2,771,521	\$3,535,466	\$4,293,549	\$5,062,496	\$5,824,457	\$6,578,851	\$7,342,359
Annual LNG consumption per bus	19,200									
NOTES:										
90 Active Bus Fleet										
Fuel Savings are Cumulative										

Clean Energy has estimated the cost of capital for OmniTrans based on standard lease rate; seven (7) years with 4.25% interest. The installation of a pipeline CNG station for the East Valley facility will cost an estimated \$2.3 million or approximately \$0.20 cents per gallon.

Economic Feasibility / West Valley

Omnitrans ROI Forecast / West Valley Fleet

Omnitrans ROI Forecast / West Valley Fleet										
Prices	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Natural Gas Prices										
Henry Hub Spot Price / highest baseline	\$4.06	\$4.16	\$4.26	\$4.36	\$4.46	\$4.57	\$4.68	\$4.79	\$4.91	\$5.03
Gasoline Gallon Equivalent Price	\$0.51	\$0.52	\$0.53	\$0.54	\$0.56	\$0.57	\$0.59	\$0.60	\$0.61	\$0.63
Capital Recovery is not included										
Station Maintenance 100% Parts / Labor	\$0.2500	\$0.2500	\$0.2500	\$0.2500	\$0.2500	\$0.2500	\$0.2500	\$0.2500	\$0.2500	\$0.2500
Electricity & Communications	\$0.2000	\$0.2000	\$0.2000	\$0.2000	\$0.2000	\$0.2000	\$0.2000	\$0.2000	\$0.2000	\$0.2000
State Taxes (if applicable)	\$0.0100	\$0.0100	\$0.0100	\$0.0100	\$0.0100	\$0.0100	\$0.0100	\$0.0100	\$0.0100	\$0.0100
SoCal Gas Transportation Rate	\$0.1624	\$0.1624	\$0.1624	\$0.1624	\$0.1624	\$0.1624	\$0.1624	\$0.1624	\$0.1624	\$0.1624
Total Price per GGE	\$1.1299	\$1.1421	\$1.1546	\$1.1673	\$1.1804	\$1.1938	\$1.2075	\$1.2216	\$1.2359	\$1.2507
L/CNG cost	\$1.5725	\$1.5825	\$1.5925	\$1.6025	\$1.6225	\$1.6325	\$1.6525	\$1.6625	\$1.6725	\$1.6925
Cost Savings per Gallon (CNG vs. Gas)	\$0.4426	\$0.4404	\$0.4379	\$0.4352	\$0.4421	\$0.4387	\$0.4450	\$0.4409	\$0.4366	\$0.4418
Total CNG Buses in Fleet	63	63	63	63	63	63	63	63	63	63
Total Annual Fuel Savings	\$467,386	\$465,084	\$462,473	\$459,546	\$466,855	\$463,273	\$469,912	\$465,643	\$461,018	\$466,589
Total Cumulative Fuel Savings	\$467,386	\$932,469	\$1,394,942	\$1,854,488	\$2,321,343	\$2,784,616	\$3,254,528	\$3,720,171	\$4,181,189	\$4,647,778
Annual Fuel Consumption (per bus)	16,762									
NOTES:										
63 Active Bus Fleet										
Fuel Savings are Cumulative										

The cost to install a pipeline CNG station at the West Valley facility will be an estimated \$1.7 million or \$0.30 cents per GGE.

Economic Feasibility / I Street Paratransit

Omnitrans ROI Forecast / Paratransit Fleet

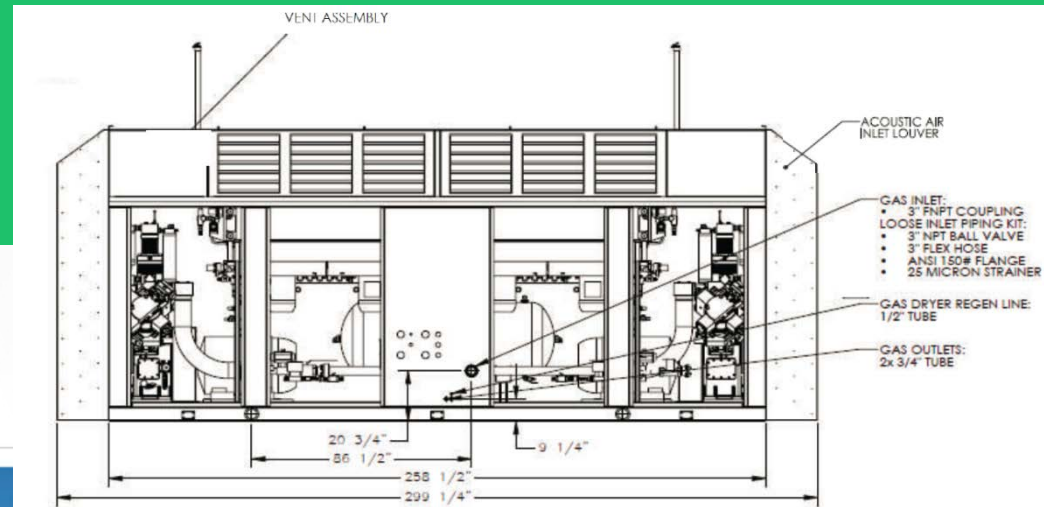
Omnitrans ROI Forecast / Paratransit Fleet										
Prices	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Natural Gas Prices										
Henry Hub Spot Price / highest baseline	\$4.06	\$4.16	\$4.26	\$4.36	\$4.46	\$4.57	\$4.68	\$4.79	\$4.91	\$5.03
Gasoline Gallon Equivalent Price	\$0.51	\$0.52	\$0.53	\$0.54	\$0.56	\$0.57	\$0.59	\$0.60	\$0.61	\$0.63
Capital Recovery is not included										
Station Maintenance 100% Parts / Labor	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25	\$0.25
Electricity & Communications	\$0.20	\$0.20	\$0.20	\$0.20	\$0.20	\$0.20	\$0.20	\$0.20	\$0.20	\$0.20
State Taxes (if applicable)	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01	\$0.01
SoCal Gas Transportation Rate	\$0.16	\$0.16	\$0.16	\$0.16	\$0.16	\$0.16	\$0.16	\$0.16	\$0.16	\$0.16
Total Price per GGE	\$1.13	\$1.14	\$1.15	\$1.17	\$1.18	\$1.19	\$1.21	\$1.22	\$1.24	\$1.25
EIA Gasoline Price / lowest baseline	\$2.25	\$2.35	\$2.45	\$2.55	\$2.65	\$2.75	\$2.85	\$2.95	\$3.05	\$3.15
Cost Savings per Gallon (CNG vs. Gas)	\$1.12	\$1.29	\$1.38	\$1.47	\$1.55	\$1.64	\$1.72	\$1.81	\$1.90	\$1.90
Total CNG Buses in Fleet	12	24	36	44	44	44	44	44	44	44
Total Annual Fuel Savings	\$137,490	\$316,793	\$507,421	\$659,441	\$698,562	\$737,542	\$776,378	\$815,065	\$853,601	\$854,850
Total Cumulative Fuel Savings	\$137,490	\$454,283	\$961,704	\$1,621,145	\$2,319,707	\$3,057,249	\$3,833,626	\$4,648,691	\$5,502,292	\$6,357,142
Annual Fuel Consumption (per bus)	10,229									
NOTES:										
110 Unit Paratransit Fleet										
Fuel Savings are Cumulative										

The cost to install a pipeline CNG station at the I Street Paratransit facility will be an estimated \$1.5 million or \$0.65 cents per GGE.

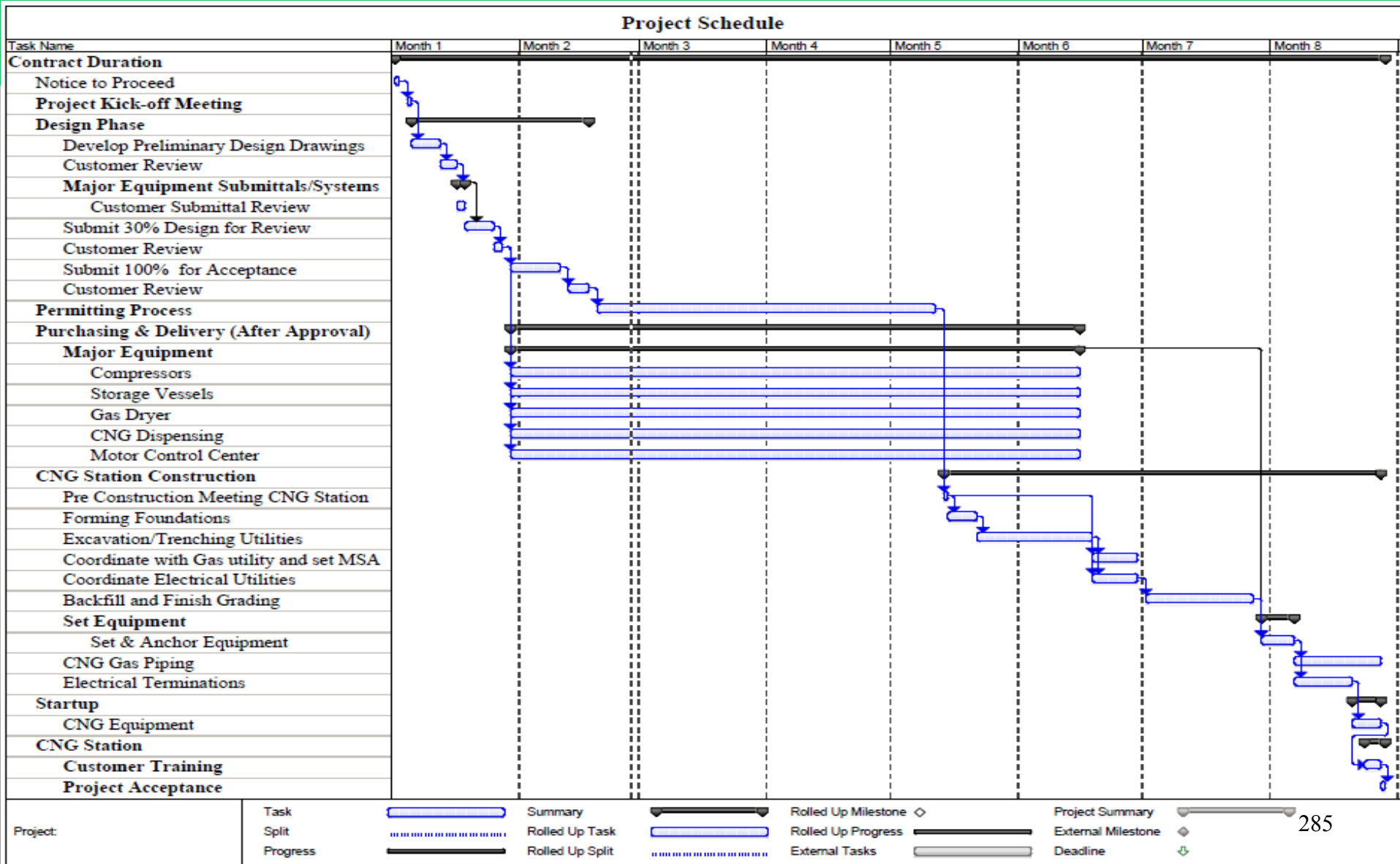
Technical Feasibility

- East Valley Facility – 2140 SCFM – 1070 gallons per hour – station cost \$2.294 M
- West Valley Facility – 1070 SCFM – 535 gallons per hour – station cost \$1.708 M
- Paratransit Facility I Street – 526 SCFM – 263 gallons per hour – station cost \$1.564 M

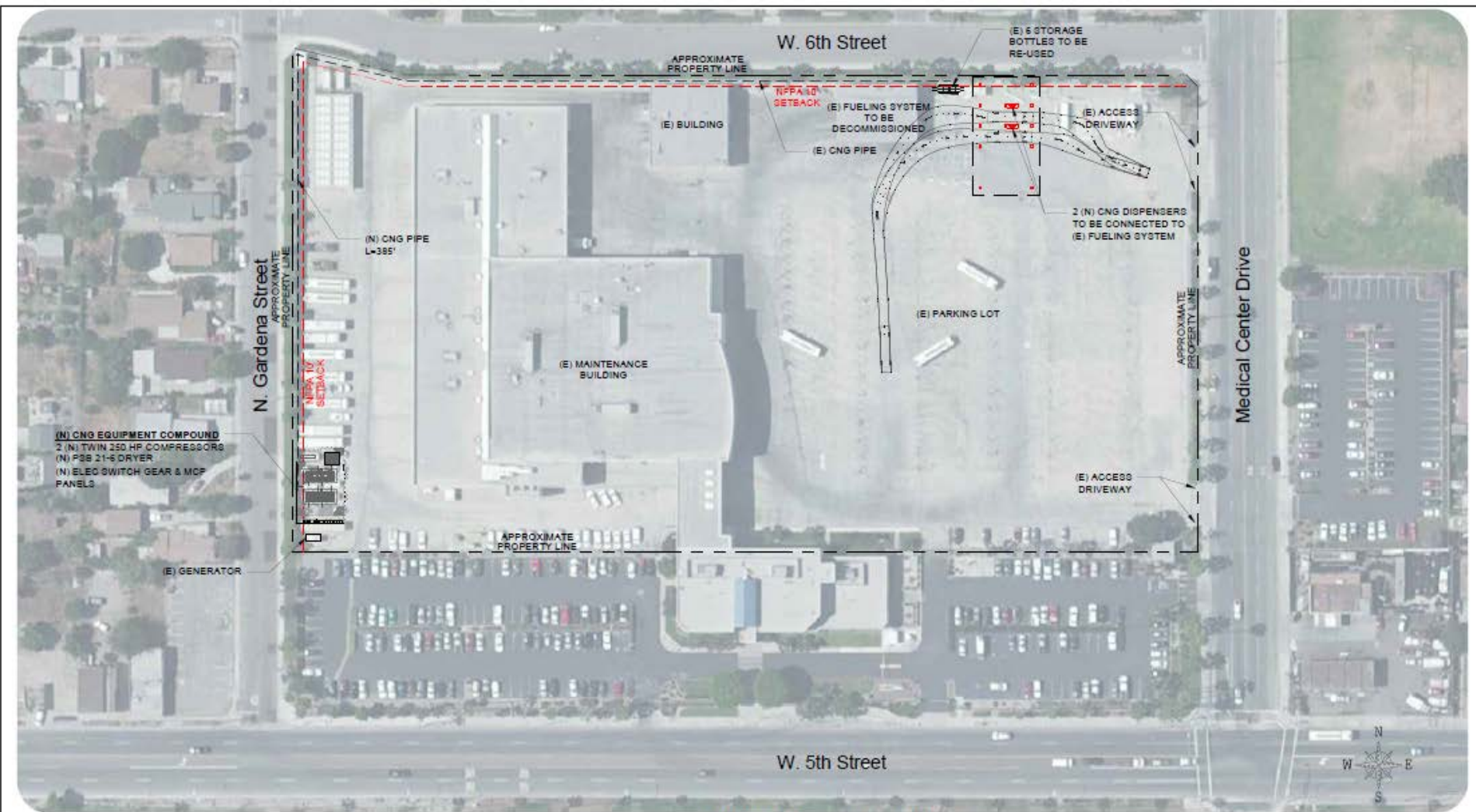
Technical Feasibility



Schedule Feasibility



Market & Real Estate Feasibility / East Valley



OMNITRANS - EAST VALLEY

COMPRESSED NATURAL GAS FUELING FACILITY
CONCEPTUAL LAYOUT

1700 West 5th Street, San Bernardino, CA 92411

SCALE: 1"=80'



4025 MACARTHUR COURT, SUITE 800, RIVERSIDE, CA 92506
TEL: (949) 437-1000 FAX: (949) 724-1367 WWW.CLEANENERGY.COM

CUSTOMER APPROVAL:

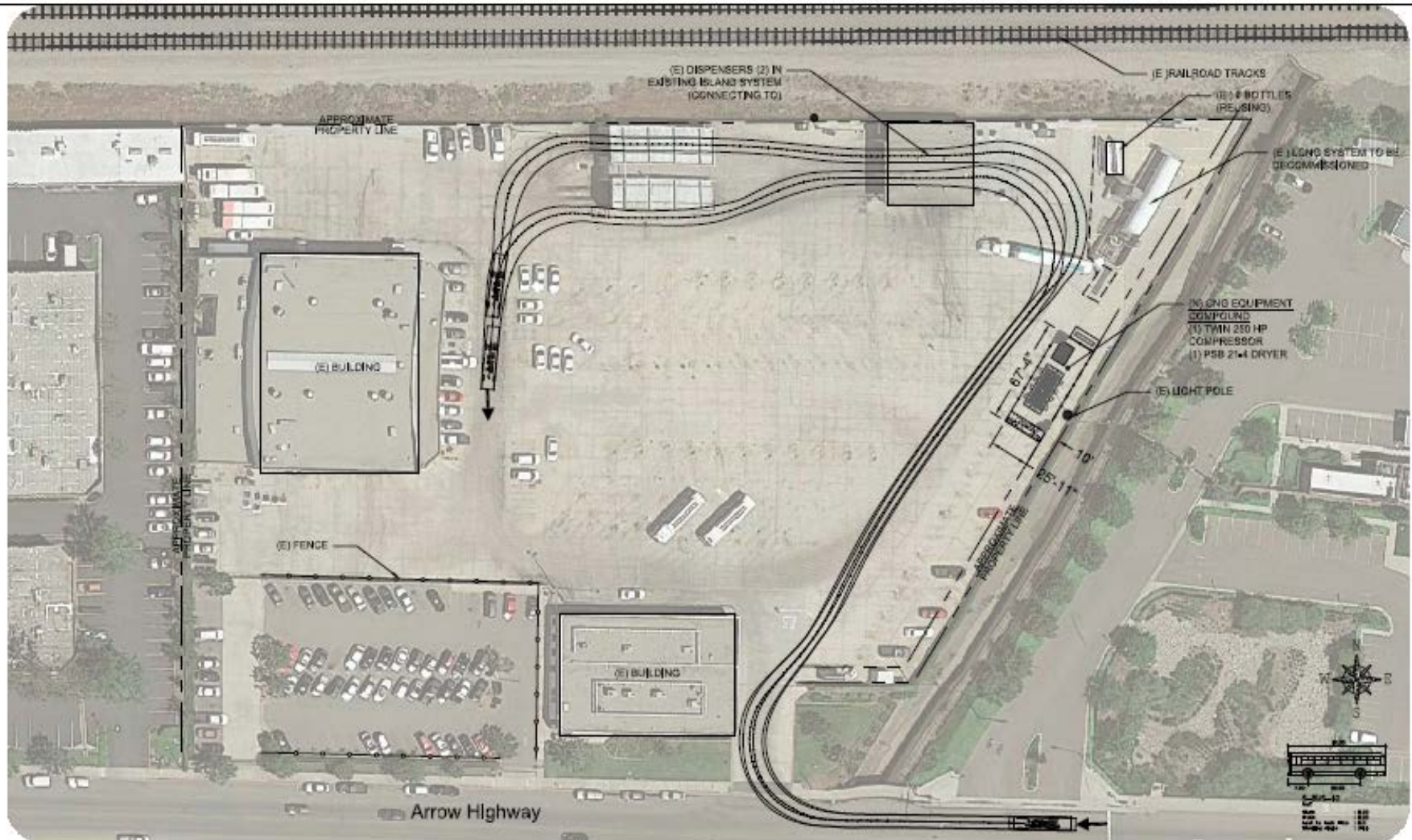
BUSINESS DEVELOPMENT
APPROVAL:

DESIGNER: HV Tran

DATE: 01/27/2015

286
CP-1

Market & Real Estate Feasibility / West Valley



OMN|TRANS - WEST VALLEY

COMPRESSED NATURAL GAS FUELING FACILITY

CONCEPTUAL LAYOUT

4748 Arrow Highway, Montclair, CA 91763

SCALE: 1"=60'



400 MACARTHUR COURT, SUITE 100, FORTY ROAD, CA 92540

TEL: (951) 437-1000 FAX: (951) 724-1387 WWW.CLEANENERGYFUELS.COM

CUSTOMER APPROVAL:

BUSINESS DEVELOPMENT

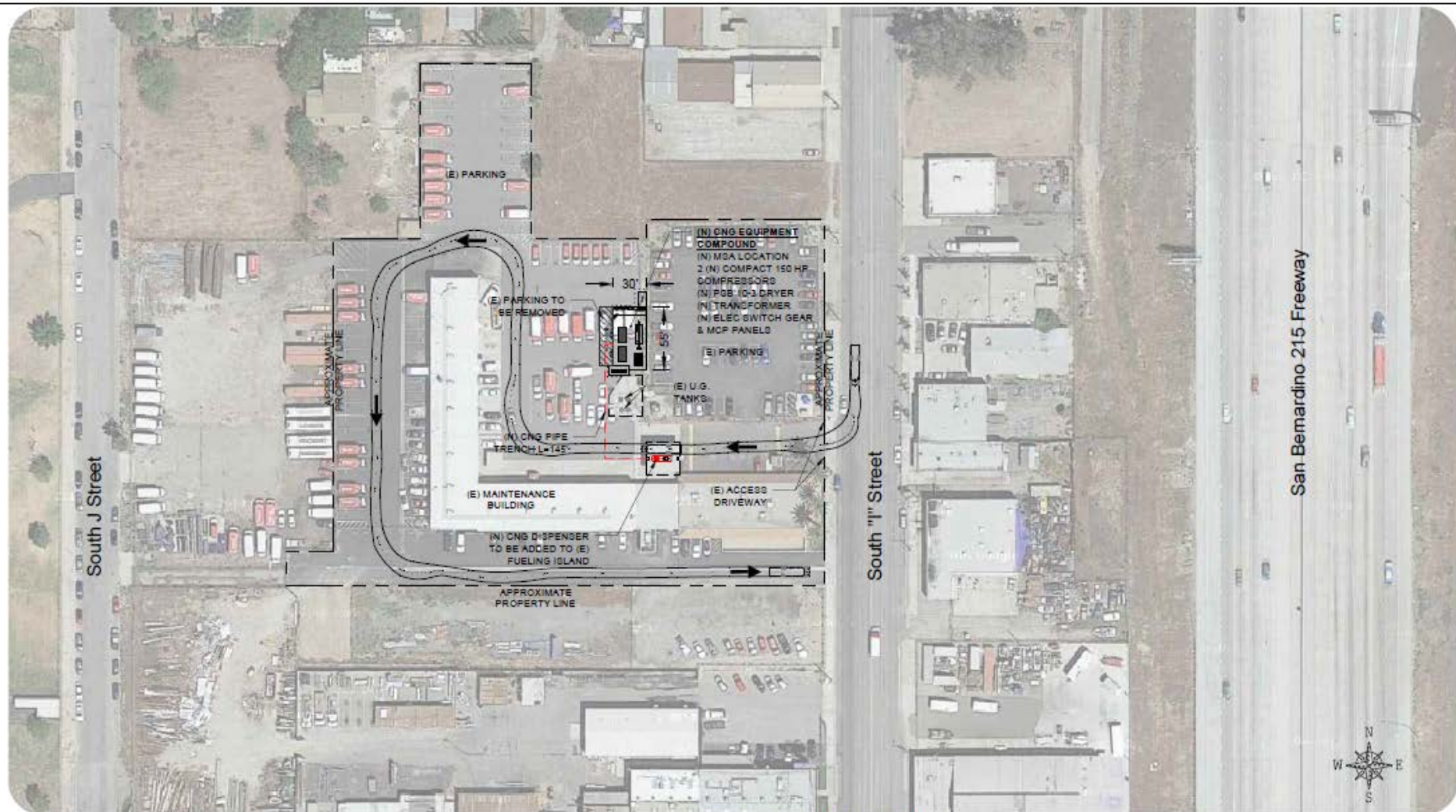
APPROVAL:

DESIGNER: G LINDSEY

DATE: 01/12/2015

287 CP-1

Market & Real Estate Feasibility / I Street



OMNITRANS - SOUTH "I" STREET

COMPRESSED NATURAL GAS FUELING FACILITY

CONCEPTUAL LAYOUT

234 South I Street, San Bernardino, CA 92410

SCALE: 1"=80'



4875 MACARTHUR COURT, SUITE 300, NEWPORT BEACH, CA 92660
TEL: (949) 437-1000 | FAX: (949) 724-1397 | WWW.CLEANENERGYFUELS.COM

CUSTOMER APPROVAL:
BUSINESS DEVELOPMENT
APPROVAL:

DESIGNER: HV Tran

DATE: 01/12/2015

288 CP-1

Resource Feasibility



A  Semptra Energy utility™

NGV PRELIMINARY SITE EVALUATION FORM

- East Valley 100 PSIG
- West Valley 197 PSIG
- I Street Paratransit 29 PSIG

Financial Feasibility



TAB X Financial Feasibility

Scope of Work: Evaluate the fueling station financial viability on the total estimated cost of the fueling station, including existing land and/or equipment and details of land and/or equipment to be purchased.

Based on estimated annual savings of \$760k at East Valley and \$460k at West Valley and \$137k at the Paratransit site (total = \$1,350,000) OmniTrans can reduce fuel expenditures by an estimated \$13,500,000 million over the next ten (10) years by switching to pipeline CNG. This figure does not include the cost to design, build, operate, maintain and finance three (3) private pipeline CNG stations to serve both the fixed route and Paratransit fleets. Details of these projected savings are detailed in the tabs above.

MASS TRANSIT

Wednesday, April 22, 2015

ITEM #E14

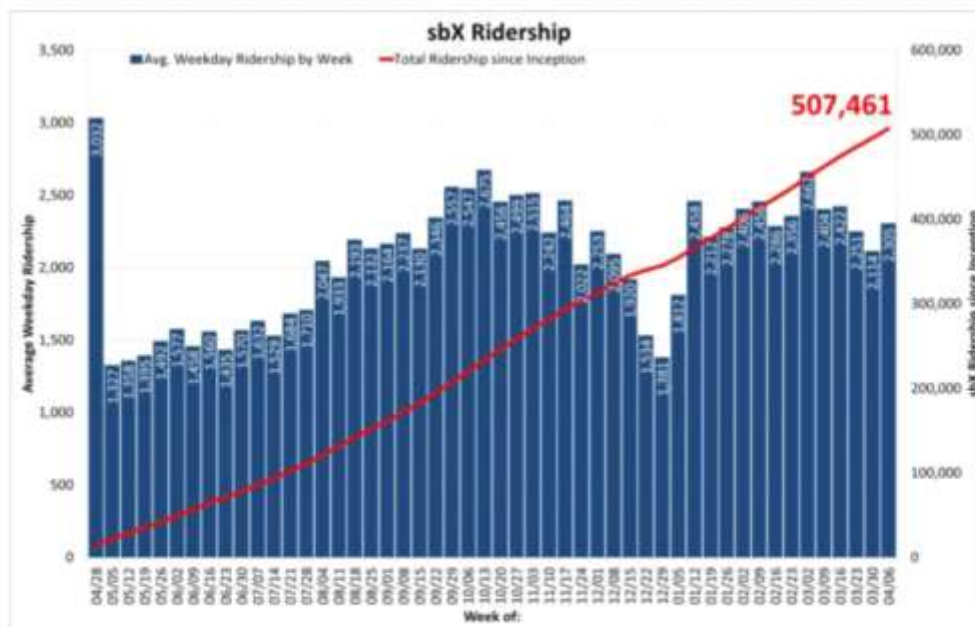
MASS TRANSIT MAGAZINE

Omnitran's sbX Tops 500,000 Riders in First Year

SOURCE: OMNITRANS APR 22, 2015



As part of the anniversary celebration, sbX free ride coupons good any day from April 27 through May 1 are available online. Photo credit: Omnitrans



Ridership on sbx has seen steady growth since its inception in April 2014. Photo credit: Omnitrans

More than half a million riders have climbed aboard the sbX rapid transit line serving Loma Linda and San Bernardino since it launched a year ago. [Omnitrans](#) is marking the anniversary with free rides, daily giveaways at sbX stations and a sweepstakes drawing that would provide a year of free rides to the winner, among other things.

The sbX launched on April 28, 2014 with a free week that attracted over 3,000 riders per day on average. Since fare collection began on May 5, average daily ridership has grown from about 1,325 to 2,375, an increase of 79 percent.

"We expect sbX ridership to grow by another 30 percent by next year, mostly due to the opening of San Bernardino Transit Center in September," said Omnitrans spokesperson Wendy Williams. The sbX station on E Street at Rialto Avenue is adjacent to the new transit center which will be the hub for 13 Omnitrans bus routes, making for easier connections.

As part of the anniversary celebration, sbX free ride coupons good any day from April 27 through May 1 are available online. Contest entry forms are available on board buses or online. Daily giveaways focus on the many destinations along the sbX line. April 27 - Take sbX shopping. 1,000 shopping bags giveaway on board and at stations all day. April 28 - Take sbX to the game. 100 IE66ers baseball tickets at the Rialto St. Station, 11 a.m. to 1 p.m. April 29 - Take sbX to lunch. Restaurant coupon giveaways at all Hospitality Lane stations, 11 a.m. to 1 p.m. April 30 - Take sbX to work. Free sbX travel mug when boarding at Loma Linda or Palm & Kendall Park-and-Ride Stations, 6 a.m. to 9 a.m. May 1 - Take sbX to the Movies. 100 Regal Cinema tickets at Court Street Station, 1 p.m. to 3 p.m.

The one-way fare on sbX, and all Omnitrans bus routes, is \$1.75; a 1-day pass is \$5. 7-day and 31-day passes offer savings for frequent riders. Persons with disabilities, seniors age 62 and up, US military veterans and youth age 18 and under, qualify for discounts.

The sbX green line runs every 10 to 15 minutes on weekdays in San Bernardino and Loma Linda on a 16-mile route, including over 5 miles of dedicated bus lanes. Riders can enjoy free Wi-Fi and 110-outlet power outlets on board.

Stations feature real-time arrival signs, ticket vending machines, emergency telephones, and public art. Traffic signal prioritization technology helps vehicles get ahead of other traffic. To enhance security, a security service patrols the corridor and video cameras at stations are monitored 24/7.

Sun
Saturday, April 25, 2015

THE SUN

Motorcyclist seriously injured when he crashes into bus in San Bernardino

By **Greg Cappis**, *Inland Valley Daily Bulletin*

POSTED: 04/25/15, 10:52 PM PDT |

SAN BERNARDINO >> A motorcyclist was seriously injured when he slid into a public bus Saturday night, according to police.

The crash happened about 7:44 p.m. on damp pavement at 21st Street and Waterman Avenue, according to police Lt. David Green.

An Omnitrans bus was making a left turn as the motorcyclist approached the intersection. It appeared the motorcyclist failed to stop at a red light and slid into the side of the bus, Green said.

Paramedics took the motorcyclist to a hospital.

No citations were issued.

TRANSPORTATION

SBX ridership above 500K

Commuters and skeptics weigh
the pros and cons of rapid-transit
bus line that started last year

By Ryan Hagen

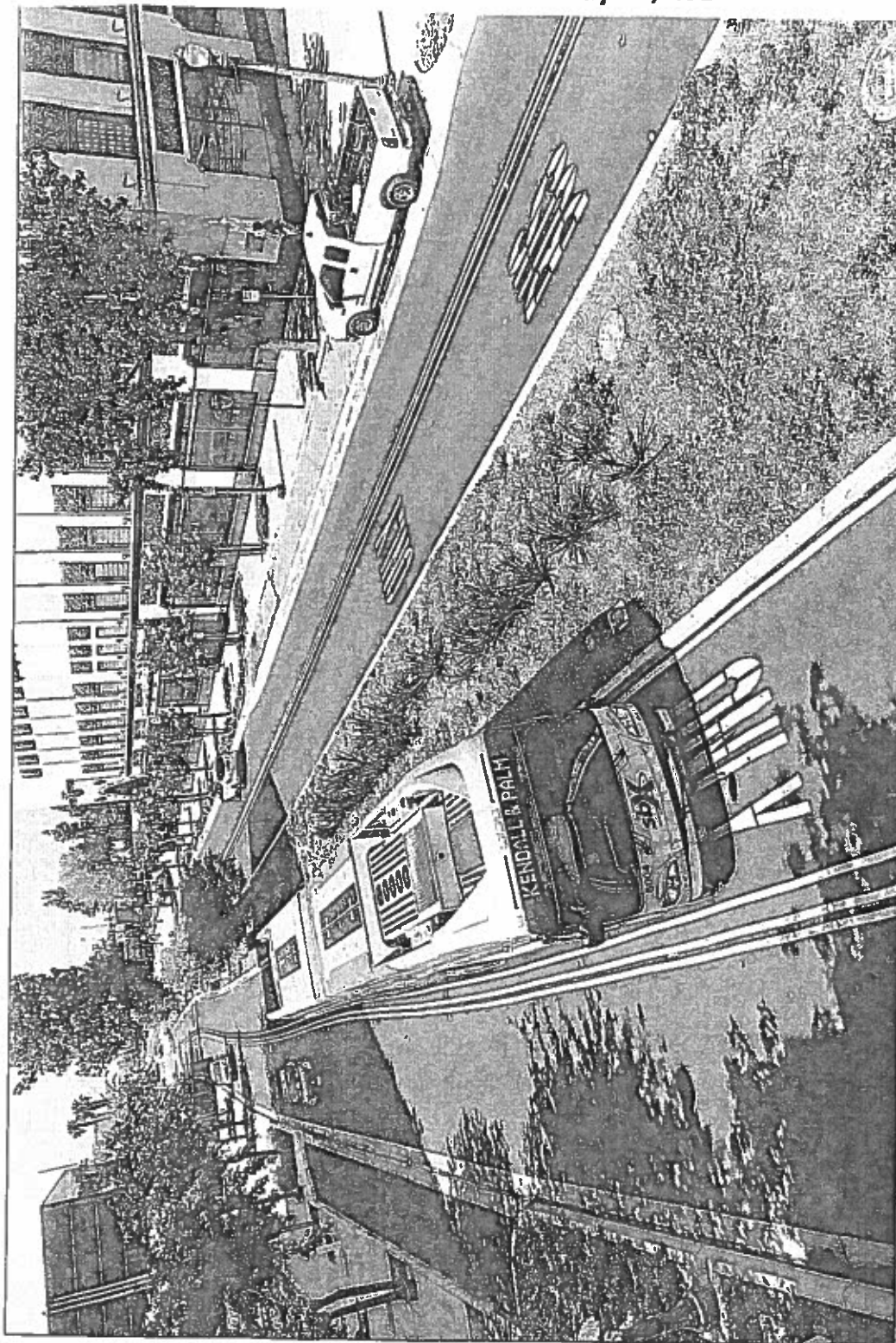
ryan.hagen@langnews.com
@rmhagen on Twitter

SAN BERNARDINO » More than half a million people rode the sbX rapid-transit bus line in its first year of service, according to Omnitrans — and they expect the next year, which just began, to boost that number significantly.

“We expect sbX ridership to grow by another 30 percent by next year, mostly due to the opening of the San Bernardino Transit Center in September,” said Omnitrans spokeswoman Wendy Williams.

That transit center, located on the southwest corner of Rialto and E Streets, is intended to allow passengers 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, Moun-

BUS » PAGE 9



RICK SFORZA — STAFF PHOTOGRAPHER

An Omnitrans sbX bus travels north along E Street in San Bernardino.

Bus

FROM PAGE 1

tain Area Rapid Transit Authority buses and Metrolink trains — and easily travel without needing a car.

The transit center broke ground in February of last year.

A few months later, the 16-mile bus line from Cal State San Bernardino to Loma Linda University began operations. The first week, when riding was free, drew 3,032 riders — the most a single week has yet gotten.

But since paid ridership began the first week of May, averaging 1,327 riders per day, most weeks have improved on the ridership total from the last, with average daily ridership now at 2,375, according to Omnitrans. That's an increase of 79 percent.

Still, the perception persists that no one rides the bus.

"I drive through there, as many people do, every day," said Renee Sharer, property manager for Hospitality Management LLC, referring to the Hospitality Lane area where the bus lane blocks people from crossing the street. "If you're in that area, they all laugh: 'How many people do you see on there?' There's some mornings I drive in, and there's no one on the bus except the bus driver."

In return, Sharer says, the bus line has hurt local businesses.

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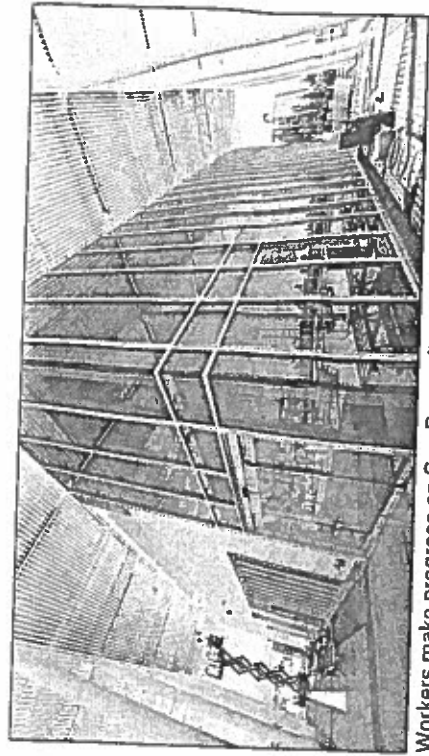
"I ride it every day to pick my sister up from school," said Lewis Powell, 29, a San Bernardino resident and student at San Bernardino Valley College. "Other times I'll go to the store or just ride it for fun. It's a lot cheaper than driving."

Similarly, Joseph Hackett, a 46-year-old resident of San Bernardino, said price was the main reason he rode sbX, although he usually has a car.

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One-way fare is the same as other Omnitrans buses, \$1.75. A day-pass is \$5, with other discounts for seven-day and 31-day passes and for persons with disabilities, seniors, military veterans and people under 18.

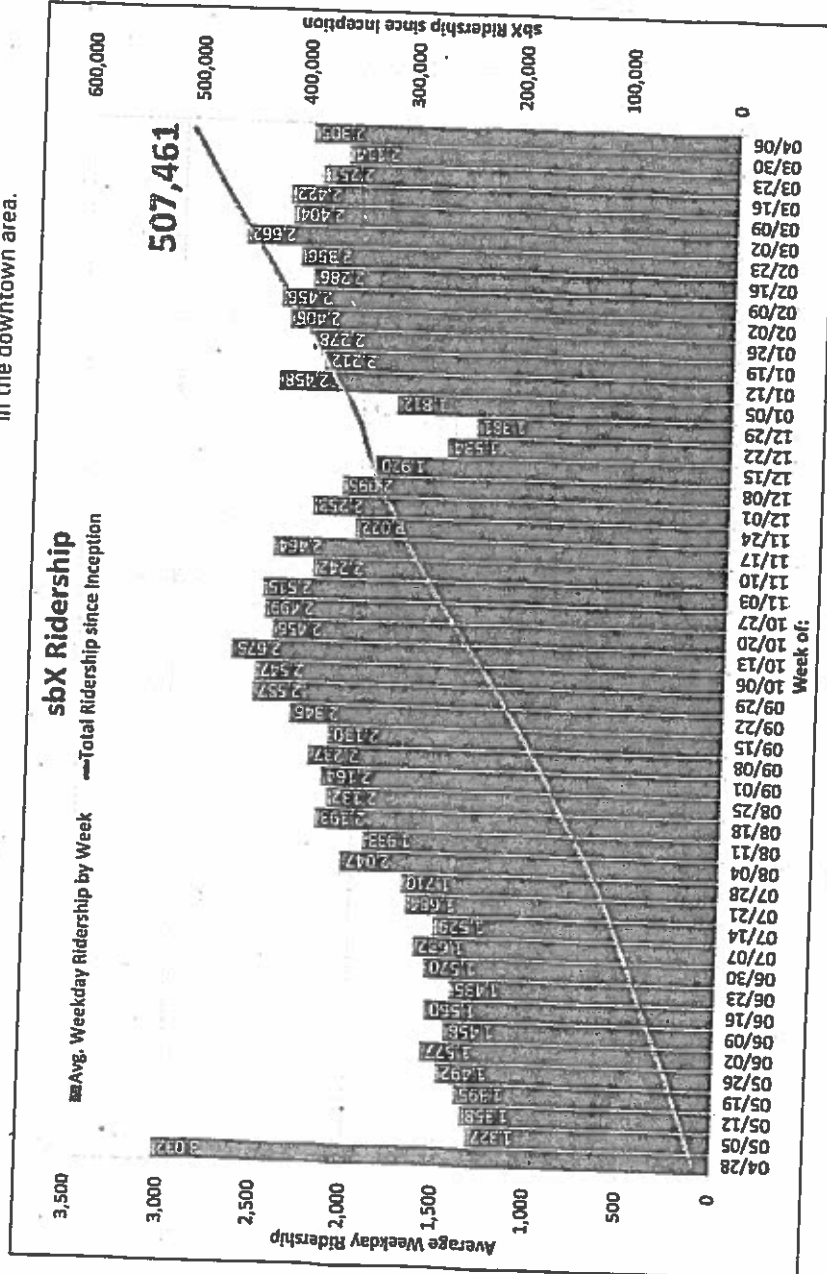


Workers make progress on San Bernardino's new transit center station. The Transit Center will serve as a transfer point for bus routes meeting in the downtown area.



PHOTOS BY SARAH ALVARADO — STAFF PHOTOGRAPHER

Workers make progress on San Bernardino's new transit center station. The Transit Center will serve as a transfer point for bus routes meeting in the downtown area.



GOLD LINE

Light rail from L.A. to IE is on track

by Neil Nisperos
neil.nisperos@langnews.com
Reporter Neil on Twitter

After two-thirds of a century, light-rail transit could be making a comeback in the Inland Empire, if funding is secured from Los Angeles County.

But if everything goes well for supporters and the agency planning the project, it could be another eight years before Inland Empire residents could take a light-rail system to Los Angeles or Pasadena from cities like Montclair or Claremont.

The Metro Gold Line Foothill Extension Construction Authority is in the midst of advanced engineering for the third phase of its light rail system, which would bring the line from Los Angeles, through San Gabriel Mountain foothill communities, to the Montclair transit center. Officials have been meeting with local Inland Foothill residents about the plan, in addition to discussing designs and layouts for the proposed stations and parking.

A similar system — the Pacific Electric Red Car line — was available for residents in the early 20th century, until it was discontinued in the 1940s.

"Continuing the Foothill Gold Line to Montclair will be a game-changer with more than 18,000 people taking the train every day between Azusa and Montclair alone," said Habib Balian, chief executive officer, of the Metro Gold Line Foothill Extension Construction Authority. "Those are people going to work, school, shopping, etc., and not using their cars. That reduces pollution, congestion and improves the overall quality of life."



STAFF FILE PHOTO

An MTA crew performs maintenance on a Gold Line rail.

He added that each city along the route is planning land-use developments around their future stations, allowing more people to live and work closer to public transit.

"We have seen the benefits all along the Gold Line since it began operating in 2003, and it is significant," he said.

Andrea Walters, a Claremont resident and an economics professor at Cal State LA, was at the Claremont station on Friday, where she uses Metrolink trains to commute to work. She said she supports the Gold Line because it would reduce traffic on the highways and would help spur economic activity.

"Any time you increase access from communities to communities, you increase

the flow of labor so more people can find jobs and start businesses, and from an economic perspective, any time you have a free flow of labor, you're going to have lower cost and more efficiency because people can get jobs they are better suited to without having to

suffer through huge transportation costs, so it makes more sense for any community along that line."

The Los Angeles County Metropolitan Transportation Authority is considering placing a half-cent sales initiative on the November 2016 ballot to fund the Gold Line and other projects.

If the money — \$1.18 billion for phase 3 from Azusa to Claremont — was made available in January of 2017, planners say the project wouldn't be completed until 2023. And then there's the matter of funding for the project past the Los Angeles County line from the Claremont Transit Center to the Montclair Transit Center.

Gold Line officials say the cost to build the mile-and-a-half-long line to connect the two stations would be about \$55 million, which would be obtained through San Bernardino Association of Governments, or SanBAG, the agency that oversees transportation in the county.

Montclair City Manager Ed Starr said he'd been informed by SanBAG that cost for construction would be \$72 million, based on their estimate and that the agency didn't have the funds available, save for \$2 million annually for operations and maintenance. Starr said local officials would make efforts to acquire funding for the project from the federal government, and California's cap-and-trade program, which collects revenue from companies seeking carbon emission allowances and then provides the revenue for worthy projects that

help reduce carbon emissions, such as rail projects.

Starr also said that Montclair has committed to spending \$2.16 million for planning for the last leg of the project, and has drafted agreement documents to be considered by SANBAG by July that would reimburse the city for the cost.

Balian said that if the money to take the line from Claremont to Montclair is unavailable in the near term, there is the option of building to Claremont and then coming back to the last leg as a separate fourth phase, though he said the cost could rise to \$155 million as a standalone project.

Rep. Norma Torres, D-Ontario, said she's been involved in the project since she was on the Pomona City Council and during her time in Sacramento

as a California assemblywoman and state senator. In the assembly, a bill she authored had helped ensure local elected officials would be able to serve on the Gold Line Board and not have it be considered a conflict of interest.

Torres said the Gold Line would be "an economic engine for the region" and said she would assist in efforts to secure funds for the project and other projects throughout the region.

"It will help us with our traffic congestion," she said. "It is an environmentally friendly way to move our residents and commuters around the Inland Empire and into Los Angeles, especially the people that have to work out there that make the 10, the 60 and the 210 freeways their 297-day commute."

Sun
Sunday, May 10, 2015

Redlands Daily Facts

sbX ridership tops 500k for 1st year, with increase expected



An Omnitrans sbX bus travels north along E Street in San Bernardino. Rick Sforza — Staff Photographer

By [Ryan Hagen](#), San Bernardino Sun

POSTED: 05/10/15, 2:12 AM PDT



Workers make progress on San Bernardino's new transit center station. The Transit Center will serve as a transfer point for bus routes serving the Downtown area. Sarah Alvarado — Staff Photographer

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That transit center, located on the southwest corner of Rialto and E Streets, is intended to allow passengers 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.

The transit center [broke ground](#) in February of last year.

A few months later, the 16-mile bus line from Cal State San Bernardino to Loma Linda University [began operations](#). The first week, when riding was free, drew 3,032 riders — the most a single week has yet gotten.

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Redlands Daily Facts

Monday, May 04, 2015

REDLANDS DAILY FACTS

Op-ed: True cost of Redlands Passenger Rail Project

By Jon Harrison

POSTED: 05/04/15, 10:48 AM PDT

Questions have been raised about the true cost of the Redlands Passenger Rail Project.

To be certain, the estimated cost for the project has changed over time.

Is that because the San Bernardino Associated Governments (SanBAG) is attempting to deceive the public, as is claimed by the rail detractors? Or is it because SanBAG has sought out, listened to and understood the community as it develops a commuter rail service that is cleaner, quieter, more efficient, and cheaper to operate than the more familiar Metrolink service?

SanBAG's budget for the Redlands Passenger Rail Project is \$242 million. Included in the project budget are preliminary engineering and environmental clearance (completed March 2015); final design (contract award summer 2015); construction of the track, structures, and stations (anticipated 2017 start); vehicle procurement (Diesel Multiple Units selected as preferred vehicles March 2015;) right-of-way acquisition; and program management (contract award summer 2015).

Included in the total budget are contingency amounts for the various parts of the project mentioned above. The \$30 million estimated cost for the DMUs is included in the budget mentioned above.

To meet this budget, SanBAG evaluated many design and operational alternatives in the project's environmental documents (EIR/EIS).

However, prior to the start of the environmental document in 2011, SanBAG completed an Alternatives Analysis, reviewing five transit modes, including Light Rail Transit, Bus Rapid Transit, Diesel Multiple Unit, extension of Metrolink service, and a Baseline Alternative that optimized existing transit facilities and services without major capital expenditures.

Based on this analysis, a commuter rail service was determined to be the most feasible and cost-effective in meeting the project goals of improving mobility, travel times and corridor safety; while maintaining freight service, which will continue to be in operation on the western end of the rail line for many years to come.

Light Rail Transit cannot run comingled with freight service. The Baseline Alternative of optimizing existing transit services did not compete well with respect to travel times when compared to commuter rail.

In addition, SanBAG as the owner of the railroad right-of-way is required to maintain freight service on the line, even if no passenger rail service is implemented, which necessitates the need to replace or rehabilitate structures along the rail route at a significant cost.

Not included in the Redlands Passenger Rail Project is the \$103 million cost of the Downtown San Bernardino Passenger Rail Project. It is a separate project with the independent purpose of extending Metrolink train service to the new San Bernardino Transit Center. This Center provides regional connections to Omnitrans bus service, the new sbX Bus Rapid Transit service, and transit service to the mountain and desert areas of San Bernardino County.

While the RPRP will eventually connect to the transit center, it has been analyzed for environmental impacts and funded separately from both of these other projects. Both the San Bernardino Transit Center and the San Bernardino Passenger Rail Project are already under construction; whereas the RPRP is now entering the final design phase.

An additional cost for the RPRP that has been correctly identified by opponents is the cost of borrowing money to complete the RPRP in a timely manner.

That cost is about \$78 million.

This can be viewed similarly to the money we as individuals might borrow to finance the construction or purchase of a home. Very few individuals/families have the funds available to pay cash for their house, and as a result, financing is obtained. SanBAG invokes the same strategy when it comes to paying for freeway and transit projects.

Similar to the homebuyer scenario, if SanBAG were to save up money from Measure I to pay cash for the RPRP, it would take nearly 30 years to acquire that amount of inflation-affected funding.

Furthermore, it would also cost more to construct the project than it does now, even with the cost to finance. In economic terms, the longer you wait, the higher the cost.

Advancing public transportation options is neither a simple or cost-free consideration. SanBAG works to provide choices for people who are looking to move effectively and efficiently within the region.

Building RPRP now addresses the immediate need of current transportation demand while connecting people with access to medical, retail and government services.

RPRP also contributes to establishing transportation choices that will help meet the needs of our communities in the future.

Jon Harrison is mayor pro tem of Redlands and a SanBAG board member.

The Sun

May 17, 2015

CALIFORNIA

Budget is short on funds for road fixes

By Josh Richman

jrichman@bayareanewsgroup.com

There simply isn't enough money to adequately maintain California's crumbling highways and bridges, Gov. Jerry Brown's revised budget proposal acknowledges.

Brown's proposal would boost general-fund spending on transportation from \$200 million in the current year to \$261 million in 2015-16, a 30.5 percent increase. There's also \$8.86 billion in special funds and \$2.1 billion in bond funds earmarked for transportation, bringing next year's total to about \$11.2 billion.

But the past decade's spending was mostly on reducing traffic jams, allowing for faster shipping of goods, funding local streets and roads, and tran-

ROADS » PAGE 4

Roads

FROM PAGE 1

sit facilities, the proposal notes. Meanwhile, highway repair and maintenance — though crucial to California's economy — has "largely been overlooked," the budget plan acknowledges.

Current gas-tax revenue covers only about \$2.3 billion of the state's \$8 billion in annual highway repair needs, Brown's plan notes, and so there's \$5.7 billion each year in deferred maintenance.

And gas-tax revenue is decreasing as cars become more fuel efficient and some drivers switch to hybrids or electric cars — good for the environment, but bad for highways. "While the state is accelerating the pilot program to explore a potential mileage-based revenue collection system, or Road Usage Charge, implementation of a broader statewide program is not likely for a number of years," the plan says.

So a transportation infrastructure priorities work group will keep meeting to triage the state's most pressing highway needs, and Brown's administration is working with lawmakers to develop a pay-as-you-go funding package by the end of this year.

On the brighter side, significant proceeds from the state's cap-and-trade program to reduce greenhouse-gas emissions went to clean-transportation and mass-transit uses starting in the current budget year.

Brown's revised transportation budget for next year provides \$1.6 billion from these revenues, including \$500 million for the controversial high-speed rail system that Brown ardently supports.

It also includes \$100 million for transit operations in the Low Carbon Transit Operations Program, and \$265 million for rail and transit in the Transit and Intercity Rail Capital Program. Another \$400 million goes to the Affordable Housing and Sustainable Communities Program, which funds land-use, housing, transportation, and land-preservation projects to support infill and compact development. And \$350 million goes to the Air Resources Board's clean transportation programs.

ITEM # F1

DATE: June 3, 2015

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

On May 20, 2015, Omnitrans received approval from the Federal Transit Administration for the 10th to Highland Pavement Rehabilitation Project that was approved for award by the Board of Directors in May! A Pre-Construction meeting with Match Corporation is being scheduled and we are excited to move forward with this project and bring it to a successful conclusion.

The new bus wash at the East Valley facility has been completed and is currently operational. The completion of the facility not only provides Omnitrans with a state of the art bus wash but also provides for a significant reduction in the use of fresh water; for each bus cycle 80% of the water is reclaimed compared to 50% reclaimed water with the previous bus wash facility. Omnitrans is currently investigating options available for the bus wash at its West Valley facility to achieve similar water savings. We will also bring the 60 Access vehicles located at I Street to the East Valley bus wash to conserve additional water resources.

Hillwood Enterprises, LLC, has withdrawn its agreement to purchase the property in Rancho Cucamonga; therefore, we are in the process of securing another appraisal, which will be sent to the Federal Transit Administration for approval before it can be listed for public auction again. As the property was already offered to public entities, we are not required to do so a second time, thereby reducing the time to conduct the public auction.

PSG

ITEM # _____ F2 _____

DATE: June 3, 2015

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

FROM: P. Scott Graham, CEO/General Manager

**SUBJECT: INSTALLATION OF NEW CHAIR
ELECTION OF VICE CHAIR**

FORM MOTION

1. Approve the installation of Vice Chair Sam Spagnolo, Rancho Cucamonga, to the office of Chair of the Omnitrans Board of Directors, for a two-year term, beginning July 1, 2015 and continuing through June 30, 2017.
2. Elect a new Vice Chair to the Omnitrans Board of Directors, for a two-year term, beginning July 1, 2015 and continuing through June 30, 2017.

BACKGROUND

The policy adopted by the Omnitrans Board of Directors in 1991 specifies that, every two years, the Vice Chair assumes the position of Board Chair and that a new Vice Chair shall be elected.

As the term of Board Chair Alan Wapner concludes June 30, 2015, the current Board Vice Chair shall assume the position of Chair of the Board of Directors, effective July 1, 2015. As this leaves the Vice Chair position vacant, the Board of Directors must elect a new Vice Chair, to also become effective July 1, 2015. Both shall serve in their new roles for the period of July 1, 2015 through June 30, 2017.

CONCLUSION

The Board of Directors shall approve the installation of Vice Chair Sam Spagnolo to the position of Board Chair and elect a new Vice Chair of the Board of Directors, both to become effective July 1, 2015.

PSG

ITEM # _____ F3

DATE: June 3, 2015

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: ADOPT REVISIONS TO OMNITRANS' PROCUREMENT POLICIES

FORM MOTION

Adopt revisions to Omnitrans' Procurement Policies 1020 Responsibilities, 2000 Purchasing Thresholds, 2010 Emergency & Non Competitive, and 4000 Formal Procurement Policy (Sealed Bids) increasing the CEO/General Manager's authority from \$25,000 to \$50,000, effective June 3, 2015.

BACKGROUND

In an effort to generate cost efficiencies, the City of San Bernardino took action on April 6, 2015 to amend Sections 3.04.070, 3.04.080, and 3.04.115 of the San Bernardino Municipal Code relating to purchases. The Purchasing Agent's authorization amount of \$25,000 was increased to \$50,000, effective May 6, 2015.

As Omnitrans was formerly part of the San Bernardino Transit System, provisions within the Joint Powers Agreement subject Omnitrans to statutory restrictions of the City of San Bernardino. The following Procurement Policies limit the CEO/General Manager's authority to \$25,000: 1020 Responsibilities, 2000 Purchasing Thresholds, 2010 Emergency & Non Competitive, 4000 Formal Procurement Policy (Sealed Bids).

In order benefit from the cost efficiencies implemented by the City, Omnitrans' Board of Directors approval is required to amend the Procurement Policies listed above. Pending Board of Directors' approval, the correlating Procurement Procedures will be modified and approved by the CEO/General Manager.

PSG:JMS

**GENERAL POLICIES****Responsibilities**

Approved by Omnitrans Board of Directors

Date Approved: January 9, 2002

Revised Board Approval: November 5, 2014

Revised Board Approval:**1. GENERAL**

1.1. This policy provides details on the authority and responsibility of the Omnitrans' Board of Directors and agency staff in the procurement process. General responsibilities in the overall procurement process are as follows:

- 1.1.1. When departments need a product or service, the Department Director will make a decision to purchase the product or service. The Department Director or his/her designee will prepare and approve a Requisition for the item.
- 1.1.2. Under the direction of the Procurement Director, the Procurement Department will be responsible for ensuring full and open competition on all types of contracts between vendors and the equitable treatment of all vendors.
- 1.1.3. The Director of Procurement will also periodically review the basic procurement process to make certain that Omnitrans meets Federal and State regulatory requirements for procurements of goods and services.

2. INDIVIDUAL RESPONSIBILITIES**2.1. Board of Directors**

- 2.1.1. Approves Omnitrans' operating and capital budgets based on recommendations from the CEO/General Manager.
- 2.1.2. Authorizes the release of formal procurements.
- 2.1.3. Approves or rejects all purchases or contracts over \$ ~~25,000.00~~50,000.00, based on the CEO/General Manager's recommendation.
- 2.1.4. Authorizes disposal of surplus materials, supplies, equipment and property with remaining value in excess of \$~~25,000.00~~50,000.00.
- 2.1.5. Approves agency purchasing policies and any revisions.

2.2. CEO/General Manager

- 2.2.1. Authorizes Requisitions ~~up to exceeding~~ \$ ~~25,000.00~~15,000.00.
- 2.2.2. May sign any contract on behalf of Omnitrans upon Board approval and as authorized by the Board.
- 2.2.3. Approves disposal of surplus materials, supplies and equipment under \$~~25,000.00~~50,000.00.
- 2.2.4. Assures agency compliance with purchasing policies.
- 2.2.5. Receives Disadvantaged Business Enterprise (DBE) goals from the Director of Procurement and submits them to the Board of Directors for approval.
- 2.2.6. Approves agency purchasing procedures and any revisions.



GENERAL POLICIES

Responsibilities

Approved by Omnitrans Board of Directors

Date Approved: January 9, 2002

Revised Board Approval: November 5, 2014

Revised Board Approval:

2.3. Department Director

- 2.3.1. Identifies need for goods and services supporting the department's mission.
- 2.3.2. Authorizes Requisitions up to \$15,000.00, assuring that funding for any purchase is available.
- 2.3.3. Provides technical specifications and Statement of Work analysis when applicable.
- 2.3.4. Serves as, or assigns, the Project Manager for formal procurements.
- 2.3.5. Reviews planned purchases, including inventory and non-inventory, contract expirations requiring rebid/exercise option, local and grant-funded capital and project total purchasing requirements during annual budget planning.
- 2.3.6. Evaluates quality of goods or services and gives appropriate feedback.

2.4. Director of Procurement

- 2.4.1. Oversees the Agency's Contracts, Procurement and inventory management programs.
- 2.4.2. Enforces and monitors compliance with procurement policies and procedures as mandated by federal, state, and Agency laws and regulations.
- 2.4.3. Serves as the primary custodian of all contract documents on behalf of Omnitrans.
- 2.4.4. Administers the formal procurement process and oversees procurement planning.
- 2.4.5. Oversees Omnitrans' DBE program; including notifying DBE's of contracting opportunities, recommending DBE contract awards to the CEO/General Manager, keeping DBE participation records, and submitting goals to federal officials. Coordinates with department directors during annual budget cycle to determine DBE goals for the fiscal year. Recommends agency-wide DBE goals to the CEO/General Manager. Submits DBE goals to Board for approval and forwards documentation to FTA. In conjunction with DBE coordinator, provides input for project specific DBE goals. Monitors compliance with agency DBE program. Ensures a level playing field for all aspects of Omnitrans procurement and contracting.
- 2.4.6. Coordinates with department directors during annual budget cycle to determine DBE goals for the fiscal year. Recommends agency-wide DBE goals to the CEO/General Manager.

2.5. Department Manager

- 2.5.1. Authorizes Requisitions up to \$5,000.00 as approved by the Department Director and the CEO/General Manager.

2.6. Other Departmental Personnel

**GENERAL POLICIES****Responsibilities**

Approved by Omnitrans Board of Directors

Date Approved: January 9, 2002

Revised Board Approval: November 5, 2014

Revised Board Approval:

- 2.6.1. Authorize Requisitions within limits established by the Department Director and approved by the CEO/General Manager.

2.7. Contracts Manager

- 2.7.1. Heads the Contracts function of the Department of Procurement.
- 2.7.2. Conducts construction, small, and formal procurements as defined in Policy 2000, "General Procurement – Overview."
- 2.7.3. Assures that Omnitrans adheres to Federal Transit Administration regulations, guidelines, and circulars, and other applicable state or local regulations.
- 2.7.4. Administers Omnitrans' DBE program, including notifying DBEs of contracting opportunities, recommending DBE contract awards to the CEO/General Manager, keeping DBE participation records, and prepare and submit reporting to federal officials. Ensure compliance with Omnitrans' DBE program on bid/proposal packages, vendor proposal submissions, and evaluation and award recommendations. Establish project specific goals in conjunction with the Director of Procurement.

2.8. Senior Contract Administrator

- 2.8.1. Leads the Agency's Small Procurement functions.
- 2.8.2. Processes requisitions and purchase orders for procurements not exceeding \$100,000.
- 2.8.3. Handles all procurements not handled by the Contracts Section.
- 2.8.4. Serves as point of contact for all matters involving timely and effective purchase of goods and services.

2.9. Materials Manager

2.9.1 Supervises the safe and efficient operation and maintenance of the East and West Valley parts storerooms.

2.9.2 Oversees the stock inventory management functions of the Procurement Department on behalf of the Director of Procurement.

2.9.3 Provides stockroom statistical and management information reports to the Director of Procurement.

2.10. Finance Department

- 2.10.1. Pays invoices after receiving appropriate documentation.
- 2.10.2. Maintains Petty Cash funds.
- 2.10.3. Maintains all vendor invoices.

2.11. Shipping/Receiving/Parts Clerk



Omnitrans

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GENERAL POLICIES

Responsibilities

Approved by Omnitrans Board of Directors


Date Approved: January 9, 2002


Revised Board Approval: November 5, 2014


Revised Board Approval:


2.11.1. Receives goods in accordance with Omnitrans procedures.

2.11.2. Keeps shipment receiving records.

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<p>PURCHASING THRESHOLDS</p>	<p>Approved by Omnitrans Board of Directors</p> <p>Date Approved: January 9, 2002</p> <p>Revised Board Approval: June 7, 2006</p> <p>Revised October 3, 2007</p> <p>Revised Board Approval: October 7, 2009</p> <p><u>Revised Board Approval:</u></p>
<p>1. POLICY STATEMENT</p> <p>1.1. This policy sets forth the requirements for micro, mini and small purchases. This policy includes other simplified purchase procedures, such as petty cash and procurement cards. Consistent with guidance set forth in FTA C4220.1F, Section VI.2.3.a, the procurement of supplies, materials and equipment, services and miscellaneous procurements that do not exceed an aggregate amount of the simplified acquisition threshold fixed at 41 U.S.C. § 403(11), currently set at \$100,000 as of January 2007, may be procured by the use of Small Purchase Procedures or other simplified methods.</p> <p>1.2. It is the full responsibility of the requisitioning department to ensure funds are available within the department's budget for any requested procurement.</p> <p>1.3. Consistent with the requirements of the Common Grant Rules and the guidance provided by the FTA's Circular 4220.1F, Section 6, a cost/price analysis shall be performed in connection with each procurement action. The method and degree of analysis depends on the facts and circumstances surrounding each procurement. As a starting point, Omnitrans will make independent cost estimates before receiving bids or proposals.</p> <p>1.4. A procurement value over \$100.00 requires requisition creation in Ellipse, which flows through the hierarchy for approval.</p> <p>1.5. Under no circumstances shall procurements be separated into smaller amounts for the purpose of avoiding procurement procedures.</p> <p>2. PROCUREMENT TYPES</p> <p>2.1. The Omnitrans Procurement Process is divided into two main types of procurement:</p> <p>2.1.1. Formal – procurements for goods and services in excess of \$100,000.00. These procurements are approved by the Omnitrans Board of Directors.</p> <p>2.1.2. Informal – procurements including petty cash, micro-procurements, mini-procurements, and small procurements.</p> <p>2.2. Procurement personnel use the automated Mincom Ellipse system to plan, conduct, track, and audit procurements.</p> <p>2.2.1. In some cases, Omnitrans personnel can use CAL-Cards, as specified in Section 3, "Procurement Card Policies & Procedures."</p> <p>2.2.2. Various Omnitrans personnel are responsible for the proper conduct of procurements, as specified in Policy 1020, Responsibilities.</p>	

 <p>Procurement Policy Manual</p>	<p>Policy 2000</p> <p>Page 2 of 4</p>
<p>PURCHASING THRESHOLDS</p>	<p>Approved by Omnitrans Board of Directors Date Approved: January 9, 2002 Revised Board Approval: June 7, 2006 Revised October 3, 2007 Revised Board Approval: October 7, 2009 <u>Revised Board Approval:</u></p>
<p>2.3. The applicable procedure will depend on the purchase amount. Additional requirements will apply depending on the subject of the procurement:</p> <p>2.3.1. \$100.00 and below – Petty cash procedure, P-Card or Micro-procurement.</p> <p>2.3.2. \$3,000.00 and Below – Micro-Purchase Procedure--FTA C4220.1F, Section VI.3.a</p> <p>2.3.2.1. Micro-procurements may be used for goods/services costing not more than a \$3,000 award amount.</p> <p>2.3.2.2. Micro-procurements do not require action by the Board of Directors.</p> <p>2.3.2.3. Although Micro-procurement does not require multiple quotes, purchases shall be of a fair and reasonable price and should be rotated among vendors offering competitive prices for the same quality. Documentation proving that price is fair and reasonable and the method of determination shall be retained with each transaction. Construction contracts over \$2,000.00 require compliance with Federal Procurement Requirements, such as the Davis-Bacon Act; and specific construction terms and conditions must be used for these procurements.</p> <p>2.3.3. \$3,000.01 to \$25,000.0050,000.00 – Mini-Procurement Procedure--FTA C4220.1F, Section VI.3.b</p> <p>2.3.3.1. Mini-procurements may be used for goods/services costing \$3,000.01 and not more than a \$25,000.0050,000.00 award amount.</p> <p>2.3.3.2. Mini-procurements shall be processed through a competitive solicitation process whereby a minimum of 3 quotes are obtained. Such quotes are to be documented and filed with each transaction.</p> <p>2.3.3.3. If unable to obtain the required quotations, a written justification shall be prepared and filed with each transaction. Sole source and emergency procurements shall follow the requirements in Section 7 and 8 of Policy 2010.</p> <p>2.3.3.4. Mini-procurements do not require action by the Board of Directors.</p> <p>2.3.3.5. All construction procurements of \$2,000.00 or more must be reviewed by the Procurement Department.</p> <p>2.3.4. \$25,000.0150,000.01 to \$100,000.00 – Small Procurement Procedure--FTA C4220.1F, Section VI.3.b</p>	

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<p>PURCHASING THRESHOLDS</p>	<p>Approved by Omnitrans Board of Directors Date Approved: January 9, 2002 Revised Board Approval: June 7, 2006 Revised October 3, 2007 Revised Board Approval: October 7, 2009 <u>Revised Board Approval:</u></p>
	<p>2.3.4.1. Small procurements may be used for goods/services at least \$25,000.01 <u>\$50,000.01</u> and not more than a \$100,000.00 award.</p> <p>2.3.4.2. Small procurements require action by the Board of Directors for award and must be signed by the CEO/General Manager.</p> <p>2.3.4.3. In compliance with FTA recommendations and requirements, procurements that do not exceed the stated threshold for Small Procurements do not require use of the Formal Procurement procedure.</p> <p>2.3.4.4. In the award of A&E Contracts, Omnitrans will select the most qualified firm and then negotiate a price with that firm only. (See Policy 4050 2.2)</p> <p>2.3.4.5. Price or rate quotations obtained for small procurements shall be documented and filed with each transaction.</p> <p>2.3.5. \$100,000.01 and above – Formal Procurement Procedure--FTA C4220.1F Section VI.3.c</p> <p>2.3.5.1. In compliance with FTA recommendations and the requirements of the Common Grant Rules, procurements for goods/services exceeding \$100,000.00 per award require the use of a Formal Procurement process which includes:</p> <p>2.3.5.1.1. Acquisition planning and identification of funding sources.</p> <p>2.3.5.1.2. Development of Specifications.</p> <p>2.3.5.1.3. Board authorization to release Invitation for Bids (IFB) and Request for Proposals (RFP).</p> <p>2.3.5.1.4. Advertisements.</p> <p>2.3.5.1.5. Competitive Bid Process.</p> <p>2.3.5.1.6. Evaluation of Bids or Proposals.</p> <p>2.3.5.1.7. Board Authorization of Contract Award.</p> <p>2.3.6. Procurement of Design-Build--FTA C4220.1F, Section VI.h</p> <p>2.3.6.1. OMNITRANS shall procure design-build services based on the requirements of 49 USC, Section 5325(d)(2) and the</p>

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<p>PURCHASING THRESHOLDS</p>	<p>Approved by Omnitrans Board of Directors Date Approved: January 9, 2002 Revised Board Approval: June 7, 2006 Revised October 3, 2007 Revised Board Approval: October 7, 2009 <u>Revised Board Approval:</u></p>
<p>recommendations of FTA Circular 4220.1F, Section VI.3.h. Whether the work to be performed is construction predominant or design services predominant will determine if competitive negotiations/sealed bids will apply or if the Brooks Act will be required. However, qualifications-based competitive proposal procedures should not be used to procure design-build services when the preponderance of the work to be performed is not A&E in nature as defined in 49 USC Section 5325(b)(1), unless required by State law.</p>	



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GENERAL PROCUREMENT

Emergency & Non-Competitive Procurements

Approved by Omnitrans Board of Directors

Date Approved: January 1, 2002

Revised Board Approval: June 7, 2006

Revised Board Approval: October 7, 2009

Revised Board Approval:

1. EMERGENCY PROCUREMENT POLICY

- 1.1. In accordance with the Public Utilities Code 130234 and Public Contract Code 20233, Omnitrans may conduct procurement on an emergency basis if the procurement is essential to an Omnitrans requirement to deal with an existing emergency condition, as defined in the section below.
- 1.2. Both PUC 130234 and PCC 20233, requires a two-thirds finding by the Board that public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property and proceed to expend or enter into a contract without observance of the provisions of the applicable articles regarding contracts, bids, advertisement or notice.
- 1.3. For purposes of an emergency procurement under this policy, an "emergency condition", is a great public calamity~~situation~~ (such as an extraordinary fire, flood, storm, or other disaster, epidemic, riot, terrorist activity, equipment failure), interruption of contracts essential to the provision of daily transit service, or which creates an immediate threat to the public health, welfare, or safety. The existence of an emergency condition creates an immediate need for supplies, services, or construction which cannot be met through normal procurement methods, and the lack of which would seriously threaten one (1) or more of the following:
 - 1.3.1. The health or safety of any person;
 - 1.3.2. The preservation or protection of property; or
 - 1.3.3. The continuation of necessary Omnitrans functions.
- 1.4. If that anticipated cost exceeds ~~\$25,000~~50,000, the CEO/General Manager will attempt to get the approval of the Chairman of the Board before authorizing the request.

2. NON-COMPETITIVE/SOLE SOURCE PROCUREMENT POLICY

- 2.1. Procurement of supplies and services, without competition, may be authorized under limited conditions, and subject to written justification documenting the conditions which prevent competitive solicitation. The need for a non-competitive procurement is recognized when Omnitrans' interests are best served. However, Procurement Staff are encouraged to avoid continuation of non-competitive contracts.
- 2.2. The conditions and limitations for use of service agreements and emergency procedures are described in FTA Circular 4220.1F, Section VI.3.i (1) (b). As stated, procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids, or competitive



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GENERAL PROCUREMENT

Emergency & Non-Competitive Procurements

Approved by Omnitrans Board of Directors

Date Approved: January 1, 2002

Revised Board Approval: June 7, 2006

Revised Board Approval: October 7, 2009

Revised Board Approval:

proposals and one of the following situations prevails:

- 2.2.1. The item is available only from a single source, i.e. licensed software, patented material or process, etc.
- 2.2.2. The public exigency or emergency for the requirement prevents any delay caused by competitive solicitation. Upon determining that immediate remedial measures to avert or alleviate damage to property or to repair or restore damaged or destroyed Authority property, the CEO/General Manager may authorize the expenditure of money for the direct purchase of goods, services or construction without the observance of competitive bidding requirements to ensure the facilities and equipment of the Authority are available to service the transportation needs of the general public. After any such expenditure, the CEO/General Manager shall submit to the Board a complete report explaining the necessity of the action.
- 2.2.3. FTA authorizes non-competitive negotiations.
- 2.2.4. After solicitation from a number of sources, Omnitrans deems competition inadequate.
- 2.2.5. Public Calamity. In a case such as an extraordinary fire, flood, storm, epidemic, terrorist activity, or other disaster or interruption of contracts essential to the provision of daily transit service or catastrophic failure of revenue producing equipment or facilities, the CEO/General Manager declares that public interest and necessity require immediate expenditure of money to safeguard life, health or property and direct the Authority to enter into contract(s) without observance of public bidding requirements. After any such expenditure, the CEO/General Manager shall submit to the Board a complete report explaining the necessity of the action.
- 2.2.6. The item is an associated capital maintenance item procured directly from the original manufacturer or supplier of the item. If this is the case, Omnitrans must certify in writing to the FTA (before approving the contract) that:
 - 2.2.6.1. The manufacturer or supplier is the only source for such item.
 - 2.2.6.2. The price of such item is no higher than the price paid for the item by other like customers.

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FORMAL PROCUREMENT POLICY

Sealed Bids

Approved by Omnitrans Board of Directors

Date Approved: January 9, 2002

Revised Board Approval: October 2, 2013

1. POLICY OVERVIEW

- 1.1. Procurements over \$100,000.00, as defined as in FTA C4220.1F shall require a formal procurement process.
- 1.2. Requirements for goods or services with an aggregate value of \$100,000.00 per acquisition, or per contract period including option years shall be processed in the same fashion. These requirements include:
 - 1.2.1. Rental/lease payments;
 - 1.2.2. Maintenance service contracts including option years; and,
 - 1.2.3. Construction projects.
- 1.3. **NOTE:** Purchases in excess of ~~\$25,000.00~~ \$50,000.00, but not greater than \$100,000.00 shall not require formal authorization for release from Omnitrans' Board of Directors. All purchases in excess of \$100,000.00, however, shall be processed formally including obtaining authorization for release of solicitation from Omnitrans' Board of Directors.
- 1.4. Tag-Ons. A tag-on is the adding on to the contracted quantities (base and option) as originally advertised, competed, and awarded. In accordance with federal regulations, the use of Tag-Ons is strictly prohibited.
- 1.5. Piggybacking (where the contract resulted from an open and competitive advertisement, evaluation, and award). Piggybacking is an assignment of existing contract rights to purchase supplies, equipment, or services. Omnitrans, where possible, will seek to take advantage of existing contracts awarded by other governmental entities for goods and services.
- 1.6. Federal Cost Principles: Costs or prices based on estimated costs for contracts funded through Federal grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal Cost Principles. (Federal Acquisition Regulations, Part 31). Omnitrans may reference its own cost principles that comply with applicable Federal cost principles.

2. EXCEPTIONS

There are situations in which procurements that would otherwise meet the requirements for the formal procurement process are exempt. See Policy 2010, Emergency Procurements and Non-Competitive/Sole Source Procurement, for more information on exceptions to the formal procurement process.

3. INVITATION FOR BIDS (IFB)

- 3.1. In support of certain formal procurement transactions, Omnitrans' staff will send out an Invitation for Bids (IFB) when seeking to procure supplies, equipment, materials, and construction projects. The existence of the following factors will determine whether Omnitrans should use the IFB method of awarding a contract:



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FORMAL PROCUREMENT POLICY

Sealed Bids

Approved by Omnitrans Board of Directors

Date Approved: January 9, 2002

Revised Board Approval: October 2, 2013

- 3.1.1. A complete, adequate, and realistic specification or a clear scope of work (SOW) is available;
- 3.1.2. Two or more bidders are willing and able to compete effectively for the contract;
- 3.1.3. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price;
- 3.1.4. No discussion with bidders is needed after receipt of offers;
- 3.1.5. Award is made to the lowest, responsive, responsible bidder.

4. REQUEST FOR PROPOSALS (RFP)

- 4.1. Formal procurement transactions calling for a Request for Proposals (RFP) are normally conducted with more than one anticipated source submitting a proposal, and awards are generally made to the responsible firm whose proposal offers Omnitrans the most advantageous terms with price and other factors considered.
- 4.2. The competitive negotiations (RFP) process shall be used for:
 - a. Professional Services
 - b. Support Services
 - c. Technical services
 - d. Operational Services
 - e. Maintenance Services
 - f. Architectural and Engineering Services, or
 - g. Specialized Transit Equipment as defined.
- 4.3. A request for proposals typically includes all of the elements of an invitation for bids and, in addition, usually contains clearly identified evaluation factors and their relative importance.

5. RFP AWARD PROCESS

- 5.1. Unless all proposals are rejected, contract award will be made to the responsive and responsible firm offering the most advantageous terms with price and other factors considered.
 - 5.1.1. For projects less than \$~~25,000.00~~50,000.00, award will be made with the authorization of the CEO/General Manager or his/her designee.
 - 5.1.2. For projects of \$~~25,000.00~~50,000.00 or more, award will be made with the authorization of the Board of Directors.
- 5.2. Public Award Announcement. Any award announcement issued by Omnitrans for goods and services (including construction services) having an aggregate value of



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FORMAL PROCUREMENT POLICY

Sealed Bids

Approved by Omnitrans Board of Directors

Date Approved: January 9, 2002

Revised Board Approval: October 2, 2013

\$500,000.00 or more shall specify the amount of the Federal funds as a percentage of the total costs of the award.

5.3. In all sealed proposal procurements, the award of contracts shall be to the responsive and responsible firm offering the most advantageous pricing terms.

5.4. If the award is to be made to other than the bidder offering the most advantageous pricing terms, a full justification memorandum should be prepared and put into the contract file.

5.5. In the unlikely event that identical bids are received, the successful bidder will be determined based upon the assessment and evaluation of the bids by Omnitrans' designated Evaluation Committee.

5.6. The Board of Directors is not bound by the recommendation of the Evaluation Committee or working staff when they believe their action will further Omnitrans' statutory functions.

5.6.1. However, the decision of the Board of Directors must be consistent with the solicitation's (RFP) written evaluation criteria and requirements, and must have a rational basis for the decision, which is fully documented for the procurement files.

5.7 Sound and Complete Agreement

5.7.1 All contracts shall include provisions to define a sound and complete agreement. In addition, contracts and subcontracts shall contain contractual provisions or conditions that allow for:

- a. Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, including sanctions and penalties as may be appropriate. (All contracts in excess of the small purchase threshold.)
- b. Termination for cause and for convenience by the grantee or sub-grantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000.)

5.7.2 Contracts shall be reviewed to ensure that each is a sound and complete agreement, as well as for compliance with FTA requirements under its Circular 4220.1F and Omnitrans' Policy and Procedures. The Contract and Procurement Review Worksheet (Attachment A) will be used to document the review.

6. BONDING

6.1 Bonds are required for all construction contracts valued at over \$25,000 (see FTA



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Revised Board Approval: October 2, 2013

Circular 4220.1F, Section IV.2.i(1) for FTA requirements). Bond or surety requirements will not be waived without the permission of the Board of Directors. The following minimum criteria apply:

- A bid guarantee equivalent to 5% of a proposer's bid price, consisting of a firm commitment such as a bid bond, certified check or other negotiable instrument submitted with a bid to ensure the bidder will honor its bid upon acceptance by Omnitrans.
- Performance bond equal to 100% of the contract price to ensure contractor completes its obligations under a contract.
- Payment bonds equal to the following to ensure a contractor will pay all who provide labor and materials for the completion of a contract:
 - a) For construction contracts priced at <\$1 million: a payment bond equal to 50% of the contract price;
 - b) For construction contracts over \$1 million but less than \$5 million: a payment bond equal to 40% of the contract price;
 - c) For construction contracts over \$5 million: a payment bond of \$2.5 million.

7. AWARD OF THE CONTRACT

- 7.1. Upon award of the contract by the Omnitrans' Board of Directors, the Contracts staff will notify unsuccessful bidders in writing and, if applicable, return their bid bonds.
- 7.2. Bid bonds submitted by the successful bidder will be retained by Contracts staff.
- 7.3. A preliminary notice of award shall be issued to the successful bidder notifying them that they have been selected for award and that an integrated bilateral contract document will be forthcoming. The conformed contract shall include, but not be limited to, the final negotiated terms and conditions, including price, specifications, warranty provisions, etc.

8. PROGRESS PAYMENTS

- 8.1 Progress Payments. Omnitrans may use progress payments provided the following requirements are met:
 - 1) Progress payments are considered to be to the best interest of the Agency.
 - 2) Progress payments are only made to the contractor for costs incurred in the performance of the contract.
 - 3) Omnitrans must obtain adequate security for progress payments. Adequate security may include taking title, letter of credit or equivalent means to protect the Omnitrans' interest in the progress payment.

8.2 Formal Review of Progress Payments:



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Sealed Bids

Approved by Omnitrans Board of Directors

Date Approved: January 9, 2002

Revised Board Approval: October 2, 2013

- 1) Requests for progress payments shall be formally reviewed with results documented and filed with each Contract.

9. REQUIRED FEDERAL CLAUSES

- 9.1 Contracts staff will review the contract to ensure that all the applicable Federal, State, and local clauses are included.
- 9.2 These clauses would include, but not be limited to, the following provisions: Civil Rights, DBE, Buy America, Lobbying, Debarment, and Davis-Bacon Act. The Contracts staff will also ensure that, where required, the proper certifications are included with each proposal and signed by the appropriate individual.
- 9.3 Procedure 4080-1 Table 1 summarizes the various federal clauses and/or certifications required for third party contracts utilizing federal funds.

10. DEFINITIONS

10.1 Competitive Purchases \$100,000.01 and Over

Competitive Purchases are defined as any purchase with a value of \$100,000.01 and above. Purchases of this amount require full and open competition. Formal procurement methods (sealed bid/competitive proposals) must be utilized, and most procurements of this nature are subject to Federal/State requirements. Board approval is required prior to the procurement process starting and then prior to contract award. Technical specifications/scope of work and/or any other specific requirements shall be prepared by the requesting department and submitted to the Procurement Department. The Procurement Department will prepare and publicly release an Invitation for Bids (IFB) or a Request for Proposals (RFP), as appropriate. (See Policy 4000.3 and 4000.4 for further discussion). IFBs/RFPs are publicly advertised in newspapers of general circulation, in addition to being emailed directly to the sources that are registered in Omnitrans' online vendor database. Competitive procurements are also posted on Omnitrans' website.

The threshold requirements, as outlined above, apply to the aggregate purchase amount of the required goods or services. It is not Omnitrans' policy to separate related costs for the express purpose of avoiding the competitive bid process.

10.2 Non-Competitive (Sole Source) Procurement

Under some circumstances, noncompetitive negotiations or "sole source" procurements may prove necessary to obtain goods or services without requiring formal procurement procedures. (See Policy 2010).

10.3 Options

Option items may be included in contracts entered into by Omnitrans. An option is a unilateral right in a contract by which, for a specified time, Omnitrans may elect to purchase additional equipment, supplies, or services called for in the contract or may



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elect to extend the term of the contract. If Omnitrans chooses to use options, the requirements below apply:

1. Evaluation of Options

- a. If required in the solicitation, the option quantities or periods contained in the contractor's bid or offer must be evaluated in order to determine contract award. When options have not been evaluated as part of the award, the exercise of such options shall be considered a sole source procurement.

2. Exercise of Options

- a. Omnitrans must ensure that the exercise of an option is in accordance with the terms and conditions of the option provisions stated in the initial contract awarded.
- b. To the extent possible, the exercise of contract options shall be measured in terms of its ability to either enhance or positively influence staff's ability to fully support Omnitrans' strategic plan.
- c. An option may not be exercised unless Omnitrans has determined that the option price is better than prices available in the market or that the option is the more advantageous offer at the time the option is exercised.
- d. As of May 2002, the FTA has rescinded its five-year contract term limitation for some FTA-funded contracts, including "revenue contracts." Good procurement practice requires that Omnitrans enter into contract terms no longer than is minimally necessary to accomplish the purpose of the contract. Therefore, it remains the general practice of Omnitrans to contract for terms not exceeding a five (5) year period, inclusive of options. Procurements of rolling stock and replacement parts remain limited by law to five (5) years.

10.4 Federal General Service Administration (GSA) Schedules

Under certain circumstances, Omnitrans may be permitted to make purchases through Federal GSA supply schedules in accordance with GSA published procedures, as outlined in the Best Practices Procurement Manual. The Procurement Department will determine if the proposed procurement can utilize existing Federal GSA schedules and follow Procurement Procedure 4000-1.

10.5 Procurement Department Files

The Procurement Department maintains a procurement history file which provides an audit trail from the initiation of a purchasing requirement through contract closeout. Where appropriate, the files will include documentation such as the requisitions, independent cost estimate, list of sources solicited, specifications/scope of work, original solicitation, amendments, proposals, bid evaluation results, determination that



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price is fair and reasonable, contract or purchase order, change orders, Board agendas, copies of public notices, insurance documents, evidence of performance/payment or other bond documents, notice of award, notice to proceed, and all other related correspondence.

10.6 Geographic Restrictions

Omnitrans will not use geographic preferences in the award of contracts except in the case of procurement of architectural and engineering (A&E) services, where knowledge of local conditions and building codes is a relevant factor in the quality of the A&E services.

10.7 Progress Payment

In some circumstances, Omnitrans may enter into contracts that require the use of progress payments. Progress payments shall only be made to the contractor for costs incurred in the performance of the contract. In addition, the Agency must obtain title to the property (materials, work in progress, finished goods) for which the progress payments are made. The Agency does not participate in funding payments (advance payments) to a contractor prior to the incurrence of costs by the contractor.

10.8 Solicitation Bidders List

In addition to the general requirement for full and open competition (publicly advertised solicitations), the Agency maintains a bidders list of eligible and qualified vendors who have expressed an interest in receiving solicitations. The bidders list contains the names, addresses, and point of contact for entities that will receive the solicitation. Firms responding to the publicly advertised notice for a specific solicitation are added to the mailing list.

10.9 Pre-Bid and Pre-Proposal Conferences

Pre-bid and pre-proposal conferences are generally used in complex acquisitions as a means of briefing prospective bidders and explaining complicated specifications and requirements. The conference is chaired by the responsible Procurement Department staff member and is an open forum where potential respondents may address ambiguities in the solicitation documents. Notice of the conference is included in the solicitation at the time of issuance.

10.10 Cost and Price Analysis

Some form of cost or price analysis shall be made and documented for every procurement action, including contract modifications, except as indicated in the procedure. The method and degree of analysis is dependent on the facts surrounding the particular procurement. At a minimum, Omnitrans shall develop independent cost estimates for each procurement before receiving bids or proposals. The intent of performing a cost or price analysis is to ensure Omnitrans receives a fair and equitable price consistent with the required quality, delivery, and overall terms of the transaction.



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All cost/price analyses will be documented and such documents shall be retained in the procurement files.

ITEM # _____ F4

DATE: June 3, 2015

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 - CONTRACT HRS15-152
ASSESSMENT TESTING: PRE-EMPLOYMENT, JOB ANALYSIS AND
FITNESS FOR DUTY

FORM MOTION

Authorize the CEO/General Manager to award Contract HRS15-152 to Rialto Physical Therapy Center, Inc, of Rialto, CA, for the provision of pre-employment services and job analysis beginning July 1, 2015 through June 30, 2018, in the amount of \$345,000, with the authority to exercise two (2) single option years ending June 30, 2020, with Option Year One in the amount of \$115,000, Option Year two (2) in the amount of \$115,000, plus a ten percent contingency of \$57,500, for a total not-to-exceed \$632,500.

BACKGROUND

Physical assessment testing is a system of physical employment tests to help prevent work related injuries, control injury related costs, and combat fraudulent workers' compensation claims. These tests are compliant with Americans with Disabilities Act (ADA) and California Fair Employment and Housing Act (FEHA). It includes a customized post job offer/pre-employment test that is given to applicants to match their functional capabilities with the requirements of the job. The test must be medically safe, legally compliant, scientific and objective, and include a final evaluation from a medical doctor. Prior to testing, a physical job analysis on the specific position is conducted.

On April 1, 2015, Omnitrans' Board of Directors authorized release of Request for Proposals RFP-HRS15-152. Notices were published in two local newspapers of general circulation and posted on Omnitrans' online bidding system.

One response was received prior to the May 11, 2015 deadline and was deemed responsive and evaluated in accordance with the criteria included in the RFP.

The scores were as follows:

Criteria	Weight Factor	Rialto Physical Therapy
Work Plan	15	13.50
Quality of Work	40	36.00
Experience	20	18.67
Cost	25	25.00
Total Score	100	93.17

In accordance with FTA Circular 4220.1F, and Omnitrans Procurement Procedure 4050.1, Section 5, awarding a contract in response to a single proposal is allowed when it can be determined that the lack of competition was not due to unfavorable terms and conditions or unduly restrictive scopes of work or technical specifications. Staff contacted companies that were notified of the solicitation but chose not to submit proposals. As a result of the survey, staff determined that the limited number of responses was unrelated to any term or specification and deemed the process valid.

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

FUNDING SOURCE

The cost associated with this procurement is budgeted in the Human Resource/Safety and Security Department's Operating Budget as follows:

Department 1600
Expenditure Code 503060

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

CONCLUSION

By approving award of this contract, Omnitrans will ensure the continuation of Assessment Testing and related consulting services.

PSG:JMS:JC



CONTRACT AGREEMENT

between

RIALTO PHYSICAL THERAPY
CENTER, INC.
224 N. RIVERSIDE AVE, STE. A
RIALTO, CA 92376

(hereinafter "CONTRACTOR")
Telephone:
Fax:

And

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

CONTRACT DOCUMENTS

CONTRACT NO. HRS15-152

ASSESSMENT TESTING: PRE- EMPLOYMENT AND JOB ANALYSIS

Contract Amount: \$345,000

Omnitrans Project Manager:

Name: Denise Gibson
Title: HR Specialist
Telephone: (909) 379-7262
Fax: (909) 379-7108
Email: denise.gibson@omnitrans.org

Contract Administrator:

Name: Joanne Cook
Title: Contract Administrator
Telephone: (909) 379-7198
Fax: (909) 379-7107
Email: joanne.cook@omnitrans.org



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ATTACHMENT A – SCOPE OF WORK

ATTACHMENT A1 – PRICING

ATTACHMENT B – REGULATORY REQUIREMENTS

This Agreement is made and entered into as of this 1st day of July, 2015 by and between Omnitrans (hereinafter referred to as "OMNITRANS") and Rialto Physical Therapy Center, Inc. (hereinafter referred to as "CONTRACTOR").

RECITALS

WHEREAS, OMNITRANS is a joint powers authority organized under Sections 6500 et seq. of the California Government Code 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 June 30, 2018^{38T}, unless terminated as specified in Section 10 and 11 of this Agreement. Omnitrans has no obligation to purchase any specified amount of products/services. All applicable indemnification provisions in this Agreement shall remain in effect following the termination of this Agreement.

Omnitrans' election to extend the Agreement beyond the Initial Term shall not diminish its right to terminate the Agreement for Omnitrans' convenience or CONTRACTORS default as provided elsewhere in this Agreement. The "maximum term" of this Agreement shall be the period extended from July 1, 2015 Through June 30, 2020, which period encompasses the Initial Term, Option Year 1 and Option Year 2.

3. CONTRACT OPTIONS

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

4. COMPENSATION

For CONTRACTOR's full and complete performance of its obligations under this Agreement, OMNITRANS shall pay CONTRACTOR on a FIXED PRICE basis at the fully burdened fixed rates shown in Attachment A1, and subject to the maximum cumulative payment obligation.

OMNITRANS' maximum cumulative payment obligation under this Agreement shall not exceed Three Hundred Forty Five Thousand Dollars (\$345,000), including all amounts payable to CONTRACTOR for all costs, including but not limited to direct labor, other direct costs, subcontracts, indirect costs including, but not limited to, leases, materials, taxes, insurance, and profit.

5. INVOICING AND PAYMENT

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

CONTRACTOR shall submit invoices in duplicate to:

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

Accountspayable@omnitrans.org

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

- Contract number
 - Invoice number
 - Description of Services
 - Service Date
 - Information as requested by OMNITRANS
- B. OMNITRANS shall remit payment within thirty (30) calendar days of approval of the invoices by OMNITRANS' Project Manager.

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

6. AUDIT AND INSPECTION OF RECORDS

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

Agreement unless OMNITRANS' written permission is given to CONTRACTOR to dispose of material prior to this time.

7. NOTIFICATION

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

To OMNITRANS:

Omnitrans
1700 West Fifth Street
San Bernardino, CA 92411
Attn: Joanne Cook,
Contract Administrator

To CONTRACTOR:

Rialto Physical Therapy Center, Inc.
224 N. Riverside Ave, Ste. A
Rialto, CA 92376
Attn: Richard Blum-Johnston
President

8. OMNITRANS' AND CONTRACTOR'S REPRESENTATIVES

A. OMNITRANS' Project Manager

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

Project Manager: Denise Gibson, HR Specialist

- 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>
Richard P. Blum-Johnston	President

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

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

9. DISPUTE RESOLUTION

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

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

CEO/General Manager shall issue the recommended decision in writing and provide a copy to proposer.

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

10. TERMINATION FOR CONVENIENCE

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

11. TERMINATION FOR BREACH OF AGREEMENT

- A. If CONTRACTOR fails to perform any of the provisions of this Agreement or so fails to make progress as to endanger timely performance of this Agreement, OMNITRANS may give CONTRACTOR written notice of such default. If CONTRACTOR does not cure such default or provide a plan to cure such default which is acceptable to OMNITRANS within the time permitted by OMNITRANS, then OMNITRANS may terminate this Agreement due to CONTRACTOR's breach of this Agreement.
- B. If a federal or state proceeding for relief of debtors is undertaken by or against CONTRACTOR, or if CONTRACTOR makes an assignment for the benefit of creditors, then OMNITRANS may immediately terminate this Agreement.
- C. If CONTRACTOR violates Section 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.

12. ASSIGNMENT

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

13. SUBCONTRACTING

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

Subcontractor's Name and Address	Work to Be Performed
N/A	N/A

14. INDEPENDENT CONTRACTOR

CONTRACTOR's relationship to OMNITRANS in the performance of this Agreement is that of an independent Contractor. CONTRACTOR's personnel

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

15. INSURANCE

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.*

Additional Insured:

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

16. INDEMNITY

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

17. REVISIONS IN SCOPE OF WORK

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

18. RIGHTS IN TECHNICAL DATA

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

19. OWNERSHIP OF REPORTS AND DOCUMENTS

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

20. OWNERSHIP RIGHTS

- A. In the event OMNITRANS rightfully obtains copies of Proprietary Data under the terms of the separate License Agreement and Escrow Agreement that govern rights in Documentation, Software and Intellectual Property created and/or developed by Contractor, its Third Party Software Contractors and its Suppliers as part of the Project, any derivative works and associated documentation created by or on behalf of OMNITRANS by Permitted Programmers (as defined in the License Agreement) shall be

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

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

21. WORK FOR HIRE

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

22. SUBMITTAL OF CLAIMS BY CONTRACTOR

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

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

23. EQUAL OPPORTUNITY

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

24. STANDARD OF PERFORMANCE

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

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

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

To ensure compliance with OMNITRANS' Ethics Policy, CONTRACTOR shall provide written notice to OMNITRANS disclosing the identity of any individual who CONTRACTOR desires to employ or retain under a contract, and who (1) presently serves as a Board Member/Alternate or an employee of OMNITRANS, or (2) served as a Board Member/Alternate or an employee of OMNITRANS within the previous 12 months of the date of the proposed employment or

retention by CONTRACTOR. CONTRACTOR's written notice shall indicate whether the individual will be an officer, principal or shareholder of the entity and/or will participate in the performance of this Agreement.

26. DISQUALIFYING POLITICAL CONTRIBUTIONS

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

27. COMPLIANCE WITH LAW

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

28. COMPLIANCE WITH LOBBYING POLICIES

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

29. PUBLIC RECORDS ACT

- A. All records, documents, drawings, plans, specifications and other material relating to conduct of OMNITRANS' business, including materials submitted by CONTRACTOR in its proposal and during the course of performing the Work under this Agreement, shall become the exclusive property of OMNITRANS and may be deemed public records. Said materials may be subject to the provisions of the California Public Records Act. OMNITRANS' use and disclosure of its records are governed by this Act.

- B. OMNITRANS will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act, including interpretations of the Act or the definitions of trade secret, confidential or proprietary. OMNITRANS will accept materials clearly and prominently labeled "TRADE SECRET" or "CONFIDENTIAL" or "PROPRIETARY" as determined by CONTRACTOR. OMNITRANS will endeavor to notify CONTRACTOR of any request of the disclosure of such materials. Under no circumstances, however, will OMNITRANS be liable or responsible for the disclosure of any labeled materials whether the disclosure is required by law or a court order or occurs through inadvertence, mistake or negligence on the part of OMNITRANS or its officers, employees and/or contractors.
- C. In the event of litigation concerning the disclosure of any material submitted by CONTRACTOR, OMNITRANS' sole involvement will be as a stake holder, retaining the material until otherwise ordered by a court. CONTRACTOR, at its sole expense and risk, shall be responsible for prosecuting or defending any action concerning the materials, and shall defend, indemnify and hold OMNITRANS harmless from all costs and expenses, including attorneys' fees, in connection with such action.

30. WAIVER/INVALIDITY

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

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

31. FORCE MAJEURE

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

32. CONFIDENTIALITY

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

and the like, and will not release any such information to any person, firm, corporation or other entity, either by statement, deposition, or as a witness, except upon direct prior written authority of OMNITRANS.

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

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

34. GOVERNING LAW

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

35. MODIFICATIONS TO AGREEMENT

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

36. LICENSING, PERMITS AND INSPECTION COSTS

- A. The FIRM warrants that it has all necessary licenses and permits required by the laws of the United States, State of California, and the County of San Bernardino, the Local Jurisdictions, and all other appropriate

governmental agencies, and agrees to maintain these licenses and permits in effect for the duration of the Agreement. Further, FIRM warrants that its employees, agents, and contractors and subcontractors shall conduct themselves in compliance with such laws and licensure requirements including, without limitation, compliance with laws applicable to nondiscrimination, sexual harassment and ethical behavior throughout the duration of this Agreement. FIRM further warrants that it shall not retain or employ an unlicensed subcontractor to perform work on this Project. FIRM shall notify OMNITRANS immediately and in writing of its employees', agents', contractors' or subcontractors' inability to obtain or maintain, irrespective of the pendency of any appeal, any such licenses, permits, approvals, certificates, waivers, exemptions. Such inability shall be cause for termination of this Agreement.

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

37. 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 A1, Pricing, (5) provisions of RFP-HRS15-152 and (6) CONTRACTOR's proposal dated April 12, 2015.

38. ENTIRE AGREEMENT

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

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

OMNITRANS

RIALTO PHYSICAL THERAPY
CENTER, INC.

P. SCOTT GRAHAM
CEO/General Manager

RICHARD BLUM-JOHNSTON
PRESIDENT

DATE

DATE

Federal Tax I.D. No. 20-8049972

DP _____

CM _____

HRS15-152 – ATTACHMENT A
ASSESSMENT TESTING: PRE-EMPLOYMENT,
JOB ANALYSIS & FITNESS FOR DUTY
SCOPE OF WORK

1. SCOPE OF WORK

- A. Physical pre-assessment to measure a Candidate's ability to perform the essential physical functions of the job.
- B. Testing must evaluate job specific physical strength requirements. Vendor shall develop a safe, scientific, and objective means of evaluating a Candidate's physical capabilities with the essential functions of the job. A pass/fail result shall be submitted within 36 hours from the date the test was concluded.
- C. Vendor must be able to accommodate Omnitrans recruitment schedules which may include pre-assessment testing required to be done on the weekends, both Saturday and Sunday, to be scheduled on a case by case basis.
- D. Vendor will evaluate on-site all applicable positions with the Agency, review physical job analysis, and develop pre-assessment tests. Two additional positions will be evaluated per year until all applicable positions are complete. Pre-assessment tests results shall be submitted within one (1) week from the date the on-site visit was conducted.
- E. Omnitrans will provide a coach (vehicle) for Coach Operator testing purposes and thus vendor must be within a fifteen (15) mile radius from the Agency's facility located at 1700 West 5th Street, San Bernardino, CA 92411.
- F. Proposers shall supply copies of the certifications of those professionals who will be developing and conducting the Omnitrans pre-assessment tests.
- G. Estimated usage:

<u>Description/Common Name</u>	<u>Quantity</u>
Consulting	10 Hours
Pre-Assessment Evaluations – On Site	10
Assessments – 1 st Year	70
Assessments – 2 nd Year	70
Assessments – 3 rd Year	80
Assessments – 4 th Year	80

ATTACHMENT A1
RFP-HRS15-152
ASSESSMENT TESTING: PRE-EMPLOYMENT, JOB ANALYSIS
AND FITNESS FOR DUTY FORM

PRICING

Item No.	DESCRIPTION		BASE YRS 1-3	OPTION YR 1	OPTION YR 2
1	Pre-Assessment Evaluation	Per on-site evaluation 2-4 Hrs. per position	\$ 225.00	\$ 225.00	\$ 225.00
2	Pre-Assessment Test	Per test, Monday - Friday, 8 a.m. - 5 p.m.	\$ 225.00	\$ 225.00	\$ 225.00
		Per test, Monday - Friday, after regular business hours	\$ 225.00	\$ 225.00	\$ 225.00
		Per test, Saturday and Sunday (specify hours)	\$ 225.00	\$ 225.00	\$ 225.00
3	Job Analysis	Per analysis, Monday - Friday, 8 a.m. - 5 p.m.	\$ 200.00	\$ 200.00	\$ 200.00
4	Consulting	Per hour, Monday - Friday, 8 a.m. - 5 p.m.	\$ 200.00	\$ 200.00	\$ 200.00

ITEM # _____ F5

DATE: June 3, 2015

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 ANNUAL PURCHASE ORDERS – EXCESS WORKERS’
COMPENSATION INSURANCE**

FORM MOTION

Authorize the CEO/General Manager to issue annual Purchase Orders to the California State Association of Counties Excess Insurance Authority, Joint Powers Authority Excess Workers’ Compensation Program (CSAC-EIA) for the period of July 1, 2015 through June 30, 2020, in a total aggregate amount not to exceed of \$598,000; and maintain the retention limits for the provision of Excess Workers’ Compensation insurance coverage of \$1,000,000 to \$250,000,000 per accident.

BACKGROUND

To provide protection from large or catastrophic claims, Omnitrans obtains insurance from excess insurance companies. Omnitrans retains the first \$1,000,000 of each claim and purchases excess workers’ compensation insurance to cover losses that exceed the self-insured retention. The amount of self-insured retention is determined by the excess insurance provider when the policy premium is quoted.

As part of an evaluation process, Omnitrans submitted an application to the California State Associate of Counties Excess Insurance Authority, Joint Powers Authority Excess Workers’ Compensation Program (CSAC-EIA). As a result of the evaluation, the Omnitrans Board of Directors adopted Resolution No. 194-03 to join CSAC on August 6, 2003. Subsequent Resolutions No. 214-06 and 254-11 were adopted to accept changes to the joint powers agreement and continue utilizing the joint self-insurance and risk management programs provided by CalTIP.

The joint powers agreement is perpetual and does not require annual approval by the Board of Directors. CSAC-EIA’s premium for FY16 is \$104,000 for a limit of \$250,000,000 per occurrence, inclusive of the Agency’s \$1,000,000 self-insured retention. Staff is requesting the Board of Directors authorize the CEO/General Manager to issue annual Purchase Orders to cover the premiums in accordance with the terms and conditions of the joint powers agreement.

Other local members of CSAC-EIA include Riverside County, San Bernardino County, and the cities of Corona, Fontana, Hemet, and Moreno Valley. Many other local members participate indirectly as part of other pools (i.e., Norco via PERMA and LAWCX, City of Ontario via ACCEL, and City of San Bernardino via BICEP, etc.)

FUNDING SOURCES

The cost associated with this procurement is budgeted in the Human Resource/Safety and Security Department's Operating Budget as follows:

Department	1600
Expenditure Code	506310 and 506360

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

CONCLUSION

Approving the recommended action will limit our workers' compensation liability in higher dollar catastrophic cases.

PSG:ME:JMS:JC

RESOLUTION NO. 254-11

**A RESOLUTION OF THE OMNITRANS
BOARD OF DIRECTORS, SAN BERNARDINO
COUNTY, CALIFORNIA, APPROVING THE
AMENDED JOINT POWERS AGREEMENT
FORMING THE CALIFORNIA TRANSIT
SYSTEMS JOINT POWERS AUTHORITY**

WHEREAS, on August 6, 2003, Omnitrans signed the original CalTIP JPA by its Resolution No. 194-03, and the Board of Directors approved entering into an agreement that provided for the creation of the California Transit Systems Joint Powers Insurance Authority (hereinafter CalTIP) for the purpose of jointly funding tort liabilities and other losses and providing risk management services to reduce such losses;

WHEREAS, CalTIP has provided Omnitrans coverage for such liabilities, including losses to vehicles at stable and overall cost-effective pricing;

WHEREAS, the Board of Directors of Omnitrans finds it in the best interest of Omnitrans to continue its participation in CalTIP and obtain liability coverage and risk management services from CalTIP;

WHEREAS, the joint powers agreement of CalTIP has retained its original form as drafted in 1987, and there have been changes in laws and the operations of CalTIP since that time;

WHEREAS, the Board of Directors recognize these changes and the need to amend the CalTIP joint powers agreement to enable CalTIP to benefit from the changes in laws, adapt to changes in the environment that CalTIP operates, and to benefit from the developments in managerial and operational techniques of the joint powers authority for the purpose of jointly funding tort liabilities and other losses facing the parties to the agreement in the future.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of Omnitrans accept the changes to the joint powers agreement as presented, and

BE IT FURTHER RESOLVED that the Board of Directors authorize the CEO/General Manager to sign the amended joint powers agreement that shall enable Omnitrans to continue to enjoy the joint self-insurance and risk management programs provided by CalTIP.

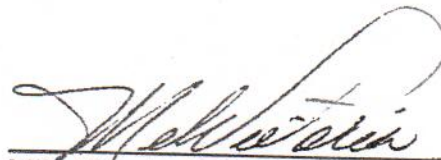
I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Omnitrans Board of Directors, at its regular meeting held on the 5th day of October 2011, by the following vote, to wit:

AYES: Yates, Graham, F. Gonzales, Roberts, Garcia, Lilburn, Dailey, Wapner, Spagnolo, Foster, Palmer, Morris, Musser, Riddell, Rutherford, J. Gonzales

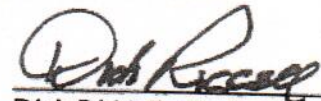
NOES: None

ABSENT: Eaton, Mitzelfelt, Derry, Ovitt

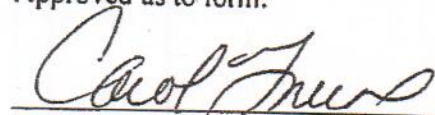
ABSTAIN: None


Milo Victoria, CEO/General Manager
Secretary, Omnitrans Board of Directors

The foregoing resolution is hereby approved this 5th day of October 2011.


Dick Riddell, Chair
Omnitrans Board of Directors

Approved as to form:


Carol Greene, Counsel for Omnitrans

ITEM # F6

DATE: June 3, 2015

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 – CONTRACT ITS15-155
CISCO SMARTNET SUPPORT**

FORM MOTION

Authorize the CEO/General Manager to award Contract ITS15-155 to NetXperts Inc. of Walnut Creek, CA, for the provision of Cisco SmartNet Support beginning June 3, 2015 through June 30, 2018, in the amount of \$220,038.36, with the authority to exercise two (2) single option years ending June 2020, in the amount of \$64,661.92 for each single option year, for a total not-to-exceed amount of \$349,362.20, if all options are exercised.

BACKGROUND

The Cisco SmartNet Maintenance program provides a contracted level of technical support for Omnitrans' network infrastructure, consisting mostly of Cisco hardware. Cisco SmartNet will provide Omnitrans with direct access to Cisco product engineers, rapid response repair services, support resources, and software upgrades.

On April 1, 2015, Omnitrans' Board of Directors approved the release of Invitation for Bids IFB-ITS15-155. Notices were published in two newspapers of general circulation and posted on Omnitrans' online bidding system. Four (4) bids were received by the April 21, 2015 deadline. Two (2) bids were deemed responsive.

Listed below are the bid prices from lowest to highest:

	NetXperts Inc.	MTM Technologies
Base Years 1-3	\$ 220,038.36	\$ 202,236.36
Option 1	\$ 64,661.92	\$ 74,943.32
Option 2	\$ 64,661.92	\$ 74,943.32
Total	\$ 349,362.20	\$ 352,123.00

Award is recommended to the lowest, responsive and responsible bidder. Price is deemed fair and reasonable as the bid is within ten percent of the Independent Cost Estimate of \$325,000.

FUNDING SOURCE

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

Department	1320
Expenditure Code	505170

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

CONCLUSION

By proceeding with this award, Omnitrans will have the ability to maintain network continuity, system uptime, and optimization.

PSG:JMS:KT

ITEM # _____ F7 _____

DATE: June 3, 2015

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 MNT15-07 (A-B)
BRAKE PARTS**

FORM MOTION

Authorize the CEO/General Manager to award Contracts MNT15-07(A-B), as listed below, for the provision of Brake Parts for an initial three (3) year period beginning July 1, 2015 and ending no later than June 30, 2018, with the authority to exercise two (2) single option years to extend the contracts no later than June 30, 2020, in an aggregate amount of \$550,000, should all option years be exercised.

Contract Company

MNT15-07A American Moving Parts, LLC, Los Angeles, CA

MNT15-07B Muncie Transit Supply, Muncie, IN

BACKGROUND

Omnitrans requires Brake Parts supplies to ensure the safety and proper maintenance of Omnitrans' fleet.

On March 4, 2015, Omnitrans' Board of Directors authorized release of Invitation for Bids IFB-MNT15-07 for the provision of Brake Parts, on an as needed basis. Notices were published in two newspapers of general circulation and posted on Omnitrans' online bidding system. Three bids were received by the April 13, 2015, deadline and two were found to be responsive. The bench awards will provide a level of protection that will avoid any gaps in inventory coverage should the primary contractor experience availability issues or excessive lead times.

The CEO/General Manager will execute amendments to increase the dollar value as needed, not to exceed the aggregate of \$500,000.

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

FUNDING SOURCE

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

Department	1200
Expenditure Code	504010

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

CONCLUSION

Award of these contracts will provide back-up sources for brake parts at the most economical rates.

PSG:JMS:JC



CONTRACT AGREEMENT

between

AMERICAN MOVING PARTS LLC
4408 Worth Street
Los Angeles, CA 90063

CONTRACT DOCUMENTS

CONTRACT NO. MNT15-07A

BRAKE PARTS

(hereinafter "CONTRACTOR")
Telephone: 714-944-7422

And

Contract Amount: \$200,000

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

Omnitrans Project Manager:

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

Contract Administrator:

Name: Joanne Cook
Title: Contract Administrator
Telephone: (909) 379-7198
Email: joanne.cook@omnitrans.org



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ATTACHMENT A: PRICING/SPECIFICATIONS

ATTACHMENT B: REGULATORY REQUIREMENTS

This Agreement is made and entered into as of this 1st day of July, 2015 by and between Omnitrans (hereinafter referred to as "OMNITRANS") and American Moving Parts LLC, (hereinafter referred to as "CONTRACTOR").

RECITALS

WHEREAS, OMNITRANS is a joint powers authority organized under Sections 6500 et seq. of the California Government Code 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 July 1, 2015 and continue in effect through June 30, 2018, 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 July 1, 2015 Through June 30, 2020, which period encompasses the Initial Term, Option Year 1 and Option Year 2.

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 B, and subject to the maximum cumulative payment obligation.

OMNITRANS' maximum cumulative payment obligation under this Agreement shall not exceed Two Hundred Thousand Dollars (\$200,000), including all amounts payable to CONTRACTOR for all costs, including but not limited to direct labor, other direct costs, subcontracts, indirect costs including, but not limited to, leases, materials, taxes, insurance, and profit.

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 delivery
- Delivery Date
- Total quantity delivered
- Information as requested by OMNITRANS

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

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

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:

Omnitrans
1700 West Fifth Street
San Bernardino, CA 92411
Attn: Joanne Cook
Contract Administrator

To CONTRACTOR:

American Moving Parts, LLC
4408 Worth Street
Los Angeles, CA 90063
Attn: Ernie Cisneros
Vice President of Sales

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: Rick Barone, Materials Manager

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

B. Contractor's Key Personnel

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

<u>Name</u>	<u>Role</u>
Ernie Cisneros	Vice President of Sales

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	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.*

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

- A. In the event OMNITRANS rightfully obtains copies of Proprietary Data under the terms of the separate License Agreement and Escrow Agreement that govern rights in Documentation, Software and Intellectual Property created and/or developed by Contractor, its Third Party Software Contractors and its Suppliers as part of the Project, any derivative works and associated documentation created by or on behalf of OMNITRANS by Permitted Programmers (as defined in the License Agreement) shall be the sole and exclusive property of OMNITRANS (collectively, "OMNITRANS Intellectual Property"), and OMNITRANS may use, disclose and exercise dominion and full rights of ownership, in any manner in OMNITRANS Intellectual Property in connection with the use, operation and maintenance of a transportation system administered by OMNITRANS. No use of OMNITRANS Intellectual Property shall be made for any purpose other than in conjunction with a transportation

system administered by CONTRACTOR, and OMNITRANS shall not sell, lease, rent, give away or otherwise disclose any OMNITRANS Intellectual Property to any outside third party other than Permitted Programmers. To the extent there may be any question of rights of ownership or use in any OMNITRANS Intellectual Property, Contractor shall require all of its subcontractors and suppliers (including without limitation its Third Party Software Contractors) to assign to OMNITRANS, all worldwide right, title and interest in and to all OMNITRANS Intellectual Property in a manner consistent with the foregoing terms of this paragraph. Contractor shall execute any documents as OMNITRANS may from time to time reasonably request to effectuate the terms of this paragraph.

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

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 re-assigned 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.

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, Pricing/Specifications, (3) provisions of IFB-MNT15-07 and (4) CONTRACTOR's proposal dated April 13, 2015.

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

AMERICAN MOVING PARTS, LLC

P. SCOTT GRAHAM
CEO/General Manager

ERNIE CISNEROS
Vice President of Sales

DATE

Federal Tax I.D. No. 68-0552726

DP _____
CM _____

ATTACHMENT A - AMERICAN MOVING PARTS
PRICING/SPECIFICATIONS
MNT15-07A - BRAKE PARTS

Item Code	Description	Unit of Measure	American Moving Parts LLC
32979	DRUM; NF 16.10" I.D. REAR BRAKE	EA	\$160.52
32987	NF 16.10"I.D. FRONT BRAKE DRUM	EA	\$122.15
218560	PAD KIT,NF SR1677 FRONT & REAR BRAKE	EA	\$118.98
219810	KIT, MULTI-PURPOSE (SHEAR ADPT) SR1677	EA	\$68.28
219815	PAD KIT, NF DISC BRK CENTER AXLE SR1565	EA	\$118.98



CONTRACT AGREEMENT

between

MUNCIE TRANSIT SUPPLY
3720 S. Madison St.
Muncie, IN 47302

CONTRACT DOCUMENTS

CONTRACT NO. MNT15-07B

BRAKE PARTS

(hereinafter "CONTRACTOR")
Telephone: 765-288-1971

And

Contract Amount: \$100,000

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

Omnitrans Project Manager:

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

Contract Administrator:

Name: Joanne Cook
Title: Contract Administrator
Telephone: (909) 379-7198
Email: joanne.cook@omnitrans.org



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ATTACHMENT A: PRICING/SPECIFICATIONS

ATTACHMENT B: REGULATORY REQUIREMENTS

This Agreement is made and entered into as of this 1st day of July, 2015 by and between Omnitrans (hereinafter referred to as "OMNITRANS") and Muncie Transit Supply, (hereinafter referred to as "CONTRACTOR").

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 July 1, 2015 and continue in effect through June 30, 2018, 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 July 1, 2015 Through June 30, 2020, which period encompasses the Initial Term, Option Year 1 and Option Year 2.

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 B, and subject to the maximum cumulative payment obligation.

OMNITRANS' maximum cumulative payment obligation under this Agreement shall not exceed One Hundred Thousand Dollars (\$100,000), including all amounts payable to CONTRACTOR for all costs, including but not limited to direct labor, other direct costs, subcontracts, indirect costs including, but not limited to, leases, materials, taxes, insurance, and profit.

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 delivery
- Delivery Date
- Total quantity delivered
- Information as requested by OMNITRANS

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

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

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:

Omnitrans
1700 West Fifth Street
San Bernardino, CA 92411
Attn: Joanne Cook
Contract Administrator

To CONTRACTOR:

Muncie Transit Supply
3720 S. Madison Street
Muncie, IN 47302
Attn: Becky Huff
Contract 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: Rick Barone, Materials Manager

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

B. Contractor's Key Personnel

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

<u>Name</u>	<u>Role</u>
Becky Huff	Contract 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	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.*

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

- A. In the event OMNITRANS rightfully obtains copies of Proprietary Data under the terms of the separate License Agreement and Escrow Agreement that govern rights in Documentation, Software and Intellectual Property created and/or developed by Contractor, its Third Party Software Contractors and its Suppliers as part of the Project, any derivative works and associated documentation created by or on behalf of OMNITRANS by Permitted Programmers (as defined in the License Agreement) shall be the sole and exclusive property of OMNITRANS (collectively, "OMNITRANS Intellectual Property"), and OMNITRANS may use, disclose and exercise dominion and full rights of ownership, in any manner in OMNITRANS Intellectual Property in connection with the use, operation and maintenance of a transportation system administered by OMNITRANS. No use of OMNITRANS Intellectual Property shall be made for any purpose other than in conjunction with a transportation

system administered by CONTRACTOR, and OMNITRANS shall not sell, lease, rent, give away or otherwise disclose any OMNITRANS Intellectual Property to any outside third party other than Permitted Programmers. To the extent there may be any question of rights of ownership or use in any OMNITRANS Intellectual Property, Contractor shall require all of its subcontractors and suppliers (including without limitation its Third Party Software Contractors) to assign to OMNITRANS, all worldwide right, title and interest in and to all OMNITRANS Intellectual Property in a manner consistent with the foregoing terms of this paragraph. Contractor shall execute any documents as OMNITRANS may from time to time reasonably request to effectuate the terms of this paragraph.

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

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 re-assigned 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.

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, Pricing/Specifications (3) provisions of IFB-MNT15-07 and (4) CONTRACTOR's proposal dated April 10, 2015.

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

MUNCIE TRANSIT SUPPLY

P. SCOTT GRAHAM
CEO/General Manager

BECKY HUFF
Contract Manager

DATE

DATE

Federal Tax I.D. No. 36-3648851

DP _____

CM _____

ATTACHMENT A - MUNCIE TRANSIT SUPPLY
PRICING/SPECIFICATIONS
MNT15-07B - BRAKE PARTS

Item Code	Description	Unit of Measure	MUNCIE TRANSIT SUPPLY
218586	NEW FLYER SR1677 BRAKE PAD WEAR INDICATOR KIT	EA	\$39.95
218760	SR1677 CALIPER ASSY FRT/ST REAR/CURB NF	EA	\$695.00
218558	DISC, NF SR1677 22.5" FRONT BRAKE	EA	\$159.95
218562	PIN KIT, NF SR1677 CALIPER GUIDE	EA	\$45.45
218584	DISC, NF SR1677 22.5" REAR BRAKE	EA	\$159.95
218762	SR1677 CALIPER ASSY FRT/CURB REAR/ST NF	EA	\$695.00
219813	DISC, NF BRAKE CENTER AXLE SR1565	EA	\$129.95

ITEM # F8

DATE: June 3, 2015

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 MNT15-153
TRAPEZE REPLACEMENT PARTS**

FORM MOTION

Authorize the CEO/General Manager to award sole source Contract MNT15-153 to Trapeze Software Group, Inc., Cedar Rapids, IA, for the purchase of Trapeze Replacement Parts for a five (5) year period beginning June 2015 through June 2020, in the amount of \$386,490.95, plus a ten percent contingency of \$38,649.10, for a not-to-exceed amount of \$425,140.05.

BACKGROUND

Omnitrans uses onboard radio communication systems on its fleet of revenue vehicles. Trapeze parts are a component of the onboard radio communication system used to exchange information between dispatch personnel and coach operators. These proprietary parts are needed to repair and maintain the Trapeze communication system. The non-proprietary parts are being solicited under IFB-MNT15-184.

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. Trapeze Software Group, Inc., is the Original Equipment Manufacturer (OEM), the sole manufacturer and seller of these parts.

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

FUNDING SOURCE

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

Department	1200
Expenditure Code	504010

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

CONCLUSION

By proceeding with this solicitation, communication between dispatch and coach operators will enhance the safety and security for coach operators and passengers.

PSG:JMS:KT



CONTRACT AGREEMENT

between

Trapeze Software Group, Inc.
5265 Rockwell Drive NE
Cedar Rapids, IA 52402

CONTRACT DOCUMENTS

CONTRACT NO. MNT15-153

Trapeze Replacement Parts

(hereinafter "CONTRACTOR")
Telephone: 319-743-1000
Email: Heidi.wiebold@trapezegroup.com

And

Contract Amount: \$386,490.95

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

Omnitrans Project Manager:

Name: Joseph Tibiita
Title: Application Specialist
Telephone: (909) 379-7249
Email: joseph.tibiita@omnnitrans.org

Contract Administrator:

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



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ATTACHMENT A – PRICE AND DELIVERABLES

ATTACHMENT B – REGULATORY REQUIREMENTS

This Agreement is made and entered into as of this ____ day of June, 2015 by and between Omnitrans (hereinafter referred to as "**OMNITRANS**") and Trapeze Software Group, Inc. (hereinafter referred to as "**CONTRACTOR**").

RECITALS

WHEREAS, OMNITRANS is a joint powers authority organized under Sections 6500 et seq. of the California Government Code and Section 130255 of the California Public Utilities Code with power to contract for the goods set forth in Attachment A to this Agreement entitled Attachment A, Price and Deliverables (hereinafter referred to as "**Work**");

WHEREAS, CONTRACTOR has indicated it is qualified to deliver such goods 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 provide deliverables as described in Attachment A, Price and Deliverables hereto and is incorporated by reference into and made a part of this Agreement.
- B. This is a non-exclusive relationship, whereby OMNITRANS may, at its sole discretion, augment or supplant the deliverables with another contractor or entity. CONTRACTOR will cooperate fully with OMNITRANS' staff or other contractor.

2. PERIOD OF PERFORMANCE

The term of this Agreement shall be from the date of execution and continue in full force and effect through June ____, 2020, unless earlier terminated or extended as provided.

All specified provisions in this Agreement shall remain in effect following the termination of this Agreement.

3. COMPENSATION

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

OMNITRANS' maximum cumulative payment obligation, excluding tax, shall not exceed Three Hundred Eighty Six Thousand Four Hundred Ninety Dollars and Ninety Five Cents (\$386,490.95), 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 submit invoices in duplicate to:

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

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

- Purchase Order number
- Invoice number
- Description of delivery
- Delivery Date
- Total quantity delivered
- Unit Price, extended price and applicable taxes
- Information as requested by OMNITRANS

B. OMNITRANS shall remit payment within thirty (30) calendar days of approval of the invoices by OMNITRANS' Project Manager. If OMNITRANS determines that an invoice does not comply with this Agreement, OMNITRANS shall notify CONTRACTOR in writing, via email or regular mail, within seven (7) business days of receipt of invoice. OMNITRANS shall pay all undisputed portions of the invoices submitted by CONTRACTOR within the payment terms stated herein.

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

C. In the event OMNITRANS fails to pay any invoice(s) when due, in addition to any other rights reserved hereunder, CONTRACTOR reserves the right to suspend or limit performance until all past due sums are paid. Any

delay in performance due to non-payment issues will in turn extend the project schedule by the same amount of time necessary for OMNITRANS to pay the outstanding invoice(s).

- D. Except as otherwise specified the prices stated do not include any state, federal, or local sales, use or excise taxes, duties, or brokerage fees now in force or which may be enacted in the future, and may be applicable to the sale, delivery or use of goods. Also, OMNITRANS expressly agrees to pay to CONTRACTOR, in addition to the prices stated, the amount of any such taxes which may be imposed upon or payable by CONTRACTOR. It is agreed that title to any product described herein shall pass to OMNITRANS at the time and place at which CONTRACTOR completes performance with reference to the delivery of the product.

5. AUDIT AND INSPECTION OF RECORDS

Refer to Attachment B, Regulatory Requirements, RR-05, Access To Records.

6. NOTIFICATION

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

To OMNITRANS:

To CONTRACTOR:

Omnitrans
1700 West Fifth Street
San Bernardino, CA 92411
Attn: Krystal Turner,
Interim Contract Administrator
Phone: 909-379-7202
Email: krystal.turner@omnitrans.org

Trapeze Software Group, Inc.
5265 Rockwell Drive NE
Cedar Rapids, IA 52402
Attn: Contracts/Legal Department
Phone: 319-743-1000
Email: Heidi.wiebold@trapezegroup.com

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: Joseph Tibiita, Application Specialist

- 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 deliverables, including the power to enforce compliance with this Agreement.
 - 2. Reserve the right to remove any portion of the deliverables from CONTRACTOR which have not been received 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.

OMNITRANS awarded the Purchase Order to CONTRACTOR based on OMNITRANS' confidence and reliance on the expertise of CONTRACTOR.

8. TERMINATION FOR CONVENIENCE

OMNITRANS may terminate this Agreement in whole or in part for OMNITRANS' convenience. Should such termination be necessary, 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 the requirements of this Agreement, whether completed or in process, to OMNITRANS' CEO/General Manager. OMNITRANS shall make an equitable adjustment for Work already performed but shall not allow anticipated profit on unperformed services. OMNITRANS shall also pay CONTRACTOR for any equipment or product i) ordered by CONTRACTOR to fulfill its obligations hereunder which cannot be returned to the supplier for a full refund and/or ii) for any handling or restocking fees incurred by CONTRACTOR due to return of product purchased by CONTRACTOR to fulfill its obligations hereunder. Any such amounts will be invoiced by CONTRACTOR and paid by OMNITRANS in accordance with Article 4, INVOICING AND PAYMENT, if equipment or product cannot be returned and OMNITRANS makes payment, title to said equipment or product will be transferred to OMNITRANS.

9. TERMINATION FOR BREACH OF AGREEMENT

- A. If either party fails to perform any of the material provisions of this Agreement or so fails to make progress as to endanger timely performance of this Agreement, the non-defaulting party may give the defaulting party written notice of such material default. If the defaulting party does not cure such default or provide a plan to cure such default in accordance with subsection H, then the non-defaulting party may terminate 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 22, 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.
- E. All finished or unfinished equipment produced or procured under this Agreement shall become OMNITRANS' property upon date of such termination and CONTRACTOR's receipt of payment for such items. OMNITRANS shall pay CONTRACTOR for all product, equipment and services provided up to and including the date of 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 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.
- H. **Opportunity to Cure:** Either party may, in the case of a termination for breach or default, allow the other party an appropriate period of time, in no event less than fourteen (14) calendar days, in which to cure the defect, or, if a defect is not such that it can be cured within fourteen (14) calendar days, then the defaulting party shall diligently commence to correct such defect within fourteen (14) calendar days. In such case, the notice of termination will state the time period in which the cure is permitted and other appropriate conditions. If the defaulting party fails to remedy a

breach or a default of the material terms, covenants, or conditions of this Agreement within the applicable cure period after receipt of written notice from the non-defaulting party setting forth the nature of said breach or default, the non-defaulting party shall have the right to terminate this Agreement in accordance with the terms and conditions hereof.

10. ASSIGNMENT

This Agreement, any interest herein or claim hereunder, may not be assigned by either party either voluntarily or by operation of law, without the prior written consent of the other party. Such consent shall not be unreasonably withheld. CONTRACTOR may assign this Agreement without consent due to an internal merger or restructuring. Consent by OMNITRANS shall not be deemed to relieve CONTRACTOR of its obligations to comply fully with all terms and conditions of this Agreement.

11. 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.

12. 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.
- C. **Errors and Omissions Liability:** \$1,000,000; combined single limit bodily and property damage liability per occurrence and \$3,000,000 aggregate or,
- D. **Professional Liability:** \$1,000,000; per occurrence and aggregate.

- E. **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.*
- F. **Employers Liability** Applicable to the work being performed, with a limit no less than \$1,000,000 per claim or occurrence and \$2,000,000 aggregate; *Endorsement naming OMNITRANS as additional insured.*

Additional Insured: OMNITRANS, its officers, officials, employees, agents, and volunteers.

13. INDEMNITY

CONTRACTOR shall indemnify and defend OMNITRANS, and its member agencies, and their officers, directors, employees and agents from and against any and all third party liability, expense (including, but not limited to, defense costs and attorneys' fees), claims, causes of action, and lawsuits that may be brought against OMNITRANS on account of bodily injury, death, personal injury or property damage (including property of CONTRACTOR) ("**Third Party Claims**") arising from CONTRACTOR'S negligence or willful misconduct in the performance of this Agreement, provided:

- A OMNITRANS shall promptly give written notice to CONTRACTOR after obtaining knowledge of any potential or actual Third Party Claim against OMNITRANS if recovery being sought against CONTRACTOR is due to the indemnity set forth above;
- B CONTRACTOR will have the right to defend OMNITRANS against any such Third Party Claim with counsel of CONTRACTOR's choice. In addition, OMNITRANS may retain separate co-counsel at its sole cost and expense to monitor the defense of the Third Party Claim, provided, however, that CONTRACTOR shall have the right to control the defense of such Third Party Claim in CONTRACTOR's sole discretion;
- C OMNITRANS will not consent to the entry of any judgment or enter into any settlement with respect to such Third Party Claim without the prior written consent of CONTRACTOR. OMNITRANS shall cooperate with all reasonable requests of CONTRACTOR in connection with the defense of such Third Party Claim; and
- D To the extent reasonably possible, OMNITRANS shall use its good faith efforts to mitigate any losses against which CONTRACTOR is obligated to indemnify OMNITRANS pursuant to this Section.
- E. This indemnity shall survive termination or expiration of this Agreement and/or final payment thereunder for no longer than two (2) years after the warranty period has ended.

14. REVISIONS

By fully executed written Amendment, OMNITRANS and CONTRACTOR may, from time to time, make changes. Changes shall be mutually agreed to and incorporated into an amendment to this Agreement. Upon execution of an amendment by both parties, CONTRACTOR shall perform work, as amended.

Price Adjustments:

- A. Any change in the contract that causes an increase or decrease in cost to OMNITRANS, or the time required for the performance of this Agreement, must be approved as prescribed herein.
- B. An equitable adjustment in the compensation and schedule will be made upon an approved Amendment.
- C. CONTRACTOR shall be liable for all costs resulting from, or for satisfactorily correcting, any and all unauthorized specification changes not properly ordered by written, fully executed modifications to this Agreement.

15. OWNERSHIP OF REPORTS AND DOCUMENTS

CONTRACTOR shall retain all rights in patents, copyrights, trademarks, trade secrets, and any other intellectual property. Furthermore, neither this agreement nor the delivery of any Work hereunder shall be construed as granting, either by estoppel or otherwise, any right in, or license under, any present or future data, drawings, plans, ideas or methods disclosed in this Agreement or under any invention, patent, copyright or trade secret now or hereafter owned or controlled by CONTRACTOR. Software utilized under the this Agreement is proprietary and ownership of the software remains with CONTRACTOR and/or its subcontractors, as the case may be.

16. SUBMITTAL OF CLAIMS BY CONTRACTOR

CONTRACTOR shall file any and all claims with OMNITRANS' Project Manager in writing within thirty (30) days from the CONTRACTOR being made aware of the event or occurrence giving rise to the claim. As the facts of the claims transpire, the CONTRACTOR's notice of claim shall include 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. CONTRACTOR shall continue to provide facts of the claim, as events transpire. CONTRACTOR's inability to provide all of the facts of the claim within thirty (30) business days shall not preclude CONTRACTOR from making and OMNITRANS from paying a claim.

17. 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.

18. 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.
- 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, if OMNITRANS considers such removal in its best interests and requests such removal in writing and such request is not done for illegal reasons. Further, an employee who is removed from performing Work under this Agreement under this Article shall not be re-assigned to perform Work in any other capacity under this Agreement without OMNITRANS' prior written approval.

19. 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.

20. 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).

21. COMPLIANCE WITH LAW

CONTRACTOR shall familiarize itself with and perform the Work required under this Agreement and applicable and mandatory Federal, state and local laws and ordinances. Should compliance with such laws require a change in scope, schedule, or deliverables, CONTRACTOR shall be allowed an equitable adjustment.

22. COMPLIANCE WITH LOBBYING POLICIES

- A. In order to be awarded procurement of this contract, 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.

23. PUBLIC RECORDS ACT

Refer to Attachment B, Regulatory Requirements, RR-04, Public Records Act.

24. 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 provisions. 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.

25. FORCE MAJEURE

Performance of each and all CONTRACTOR's and OMNITRANS' covenants herein may be subject to such delays as may occur without CONTRACTOR's or OMNITRANS' fault, including, but not limited to: any incidence of fire, flood; acts of God or the public enemy; commandeering of material, products, plants or facilities by the federal, state or local government; national fuel shortage; acts of war; terrorism; strikes; any acts, restrictions, regulations, by-laws, refusals to grant a license or permission; prohibitions or measures of any kind on the part of

any authority; freight embargoes; delays of CONTRACTOR's suppliers for like causes; contractual acts of either party or a material act of omission by OMNITRANS; when satisfactory evidence of such cause is presented to OMNITRANS, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the CONTRACTOR. The parties shall use their best efforts to remove the cause of delay and resume work as soon as possible.

26. CONFIDENTIALITY

- A. Subject to Attachment B, Regulatory Requirements, RR-04, Public Records Act, the parties agree that for and during the entire term of this Agreement, any information, data, figures, records, findings and the like ("**Records**") received or generated by the parties in the performance of this Agreement, shall be considered and kept as the private and privileged Records of the party that created or generated the Records and will not be divulged to any person, firm, corporation, or other entity except on the direct prior written authorization of the party owning the Records. Further, upon expiration or termination of this Agreement for any reason, the parties agree 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 the party owning the Records. 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. 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.
- B. Trade Secrets include any information proprietary to either party (including software source code), concerning a design, process, procedure, formula, or improvement that is commercially valuable and secret (in the sense that the confidentiality of such information affords a competitive advantage to the owner), but shall not include any information that (1) is or becomes generally known to the public through no fault of the recipient; (2) is obtained without restriction from an independent source having a bona fide right to use and disclose such information, without restriction as to further use or disclosure; (3) the recipient independently develops through persons who have not had access to such information; or (4) the disclosing party approves for unrestricted release by written authorization. OMNITRANS acknowledges that all Trade Secrets relating to or concerning the CONTRACTOR system, including any modifications made thereto, are owned by CONTRACTOR or CONTRACTOR has the applicable rights of use and OMNITRANS will maintain the Trade Secrets in strict confidence and not disclose the Trade Secrets to any third party

without CONTRACTOR's prior written consent. OMNITRANS shall prohibit any persons other than OMNITRANS employees from using any components of the CONTRACTOR system and OMNITRANS shall restrict the disclosure and dissemination of all Trade Secrets reflected in the CONTRACTOR system to OMNITRANS employees who are bound to respect the confidentiality of such Trade Secrets. These obligations of confidentiality will survive termination of this Agreement.

27. 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 regarding this project, CONTRACTOR shall inform OMNITRANS as soon as possible and inform OMNITRANS of any action taken to alleviate the situation.

28. 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.

29. MODIFICATIONS TO AGREEMENT

Unless specified otherwise, this Agreement may only be modified by written mutual consent evidenced by signatures of representatives authorized to enter into and modify this 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 and CONTRACTOR.

30. PRECEDENCE

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) Attachment B, Regulatory Requirements; (2) the provisions of this Agreement; and (3) Attachment A, Price and Deliverables.

Notwithstanding the foregoing, as the products sold and software licensed hereunder are off the shelf, such Regulatory Requirements:

- a) Shall be in effect only to the extent that such clauses are applicable to the subject matter hereof;
- b) Shall have a DBE content requirement of 0%;
- c) Shall not transfer ownership of any intellectual property;
- d) Shall not include any bonding requirements for this agreement;
- e) Shall not include any Buy America content under this agreement, unless a Buy America certificate is attached hereto;
- f) Shall not include any liquidated damages for this agreement; and
- g) If changed, cause the scope, schedule, or deliverables to change, then CONTRACTOR shall be allowed an equitable adjustment.

31. 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.

32. LIMITATION OF LIABILITY

Notwithstanding any provision of this Agreement to the contrary, in no event shall CONTRACTOR be liable for any special, incidental, indirect or consequential damages whatsoever (including, without limitation, damages for loss of profits, or business interruption) arising out of the use of or inability to use any product, equipment or associated software described herein, either separately or in combination with any other product, equipment, software or other materials even if CONTRACTOR has been advised of the possibility or certainty of such damages.

Prior to acceptance, CONTRACTOR's total aggregate liability hereunder whether based upon agreement, tort (including negligence and strict liability) or otherwise, shall in no event exceed one hundred percent (100%) of the price paid by OMNITRANS for goods and services sold hereunder.

Post acceptance, CONTRACTOR's total aggregate liability hereunder whether based upon agreement, tort (including negligence and strict liability) or otherwise, shall in no event exceed one hundred percent (100%) of the price paid by OMNITRANS for the warranty sold hereunder.

33. DISPUTES/ARBITRATION

- A. The parties shall attempt to resolve any dispute arising out of or relating to this Agreement promptly by negotiation in good faith between executives who have the authority to settle the dispute. Either party shall give the other party written notice of any dispute not resolved in the ordinary course of business. Within seven (7) business days after delivery of such notice, the party receiving notice shall submit to the other a written response thereto.
- B. All reasonable requests for information made by one party to any other shall be honored in a timely fashion. All negotiations conducted pursuant to this Article (and any of the parties' submissions in contemplation hereof) shall be kept confidential by the parties and shall be treated by the parties and their representatives as compromise and settlement negotiations under the Federal Rules of Evidence and any similar state rules.

34. REMEDIES

The duties and obligations imposed by this Agreement and the rights and remedies available hereunder shall be limited to the terms contained herein. No action or failure to act by CONTRACTOR or OMNITRANS shall constitute a waiver of any right or duty afforded either of them under this Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach hereunder, except as may be specifically agreed in writing.

35. ACCEPTANCE

OMNITRANS shall have a reasonable time, not to exceed twenty-one (21) calendar days from receipt of the goods in order to perform inspection. OMNITRANS will notify CONTRACTOR in writing of particular deficiencies of the goods during the inspection period. The punch list provided by OMNITRANS shall establish the items to be addressed. After the punch list items are addressed, the project shall be accepted. Future punch list items may be addressed under warranty. Failure to give notice or particularize the deficiencies within the inspection period will result in OMNITRANS' acceptance of the goods.

36. WARRANTY

- A. Unless otherwise specified, the CONTRACTOR's proprietary equipment sold hereunder and its associated software delivered hereunder are subject to the following warranties for a duration of one (1) year from Acceptance, as applicable for each delivery:
 - 1) CONTRACTOR agrees to repair or replace, at its discretion without charge, any such equipment which is defective in design, workmanship or material, and which is returned to CONTRACTOR at its factory, postage prepaid, provided:

- (a) Notice of the claimed defect is provided to CONTRACTOR, via certified mail, within twelve (12) months from Acceptance, as applicable for each delivery, and is returned in accordance with CONTRACTOR's instructions;
 - (b) Such equipment shall not be deemed to be defective, if, due to exposure to any condition in excess of those published in the product specification, it shall fail to operate in a normal manner; and
 - (c) CONTRACTOR's obligations with respect to such equipment are conditioned upon the proper installation and operation of such equipment by OMNITRANS (or OMNITRANS's representative designated in writing) in accordance with CONTRACTOR's written directions.
 - 2) The warranty stated in this Article shall be void if such equipment, as defined by CONTRACTOR, is altered, physically abused or repair is attempted or made by any entity other than CONTRACTOR or CONTRACTOR's authorized service center.
 - 3) Equipment, accessories, servers, workstations, and batteries not manufactured by CONTRACTOR or from CONTRACTOR's designs are subject only to such adjustments as CONTRACTOR may obtain from the supplier thereof.
- B. If OMNITRANS exercises the option to purchase software, CONTRACTOR warrants that any software delivered hereunder, either embedded in equipment described herein or specifically designed for use in or with such equipment, will provide the function(s) set forth in the applicable specification. CONTRACTOR will, at its option, without charge, revise or replace such nonconforming software provided:
- 1) Notice of the claimed defect is provided to CONTRACTOR by the OMNITRANS, via certified mail, within twelve (12) months from Acceptance;
 - 2) Software or the host medium has not been exposed to any computer virus or to any condition in excess of those published in the applicable specification(s); and
 - 3) Software has been properly installed and operation of software and the host medium are in accordance with CONTRACTOR's or manufacturers written instructions.
- C. The warranty stated herein shall be void if such software or its host medium is altered or alterations are attempted by anyone other than CONTRACTOR or CONTRACTOR's authorized service center, without prior written permission of CONTRACTOR.

No other warranties, expressed, implied, or statutory, including any implied warranty of merchantability or of fitness for a particular purpose shall be applicable to products or services provided hereunder, and the foregoing shall constitute OMNITRANS' sole right and remedy under this Agreement.

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

TRAPEZE SOFTWARE GROUP, INC.

P. Scott Graham

CEO/General Manager

Printed Name:_____

Title:_____

Date

Date

Federal Tax I.D. No. 98-0358175

DP____
CM____

ATTACHMENT A - PRICE AND DELIVERABLES								
MNT15-153								
TRAPEZE REPLACEMENT PARTS								
Item	Part Number	Description	Quantity	Base Year 1	Base Year 2	Base Year 3	Option Year 1	Option Year 2
1	24T0058-001	COVERT SWITCH	15	\$ 2,124.30	\$ 2,230.50	\$ 2,342.10	\$ 2,459.25	\$ 2,582.25
2	24T0016-001	COVERT MICROPHONE	15	\$ 931.95	\$ 978.60	\$ 1,027.50	\$ 1,078.95	\$ 1,132.95
3	32T0100-002	RESISTIVE DIVIDER ODOMETER RETROFIT KIT	15	\$ 750.00	\$ 787.50	\$ 826.95	\$ 868.35	\$ 911.70
4	10T0014-001	MOBILE DATA TERMINAL (MDT) TOUCH SCREEN MONITOR	5	\$ 2,894.65	\$ 3,039.35	\$ 3,191.30	\$ 3,350.85	\$ 3,518.40
5	25T0028-310	SINGLE ONE-LINE ADDRESS-1 (MARQUEE)	2	\$ 359.20	\$ 377.16	\$ 396.02	\$ 415.82	\$ 436.62
6	50T0147-001	Vi-IVLU ASSEMBLY	5	\$ 4,523.45	\$ 4,749.65	\$ 4,987.15	\$ 5,236.50	\$ 5,498.35
7	10T0508-002	CDM1250 RADIO	5	\$ 15,528.65	\$ 16,305.10	\$ 17,120.35	\$ 17,976.35	\$ 18,875.15
8	45T0012-013	APC SENSOR LONG CABLES	30	\$ 37,502.10	\$ 39,377.10	\$ 41,346.00	\$ 43,413.30	\$ 45,584.10
9		SUBTOTAL		\$ 64,614.30	\$ 67,844.96	\$ 71,237.37	\$ 74,799.37	\$ 78,539.52
10		SALES TAX (8.25%)		\$ 5,330.68	\$ 5,597.21	\$ 5,877.08	\$ 6,170.95	\$ 6,479.51
11		TOTAL		\$ 69,944.98	\$ 73,442.17	\$ 77,114.45	\$ 80,970.32	\$ 85,019.03

ITEM # F9

DATE: June 3, 2015

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 – CONTRACT OPS15-128
FLEET FUEL CARD SERVICES**

FORM MOTION

Authorize the CEO/General Manager to award Contract OPS15-128 to Flyers Energy, LLC, of Auburn, CA, for Fleet Fuel Card Services for a two-year base period beginning July 1, 2015 through June 30, 2017, in an amount not to exceed \$963,780, and the authority to exercise three single option years, ending no later than June 30, 2020, in an amount not to exceed \$241,540, for a total not-to-exceed amount of \$1,205,320, if all options are exercised, plus a ten percent contingency of \$120,532, for a total not-to-exceed amount of \$1,325,852.

BACKGROUND

Omnitrans requires the services of a Contractor to provide off-site fueling and fleet card services for its paratransit services operated from its Rancho Cucamonga facility. The current contract for these services expires June 30, 2015.

On March 4, 2015, Omnitrans' Board of Directors approved release of Request for Proposals RFP-OPS15-128. Notices were published in two newspapers of general circulation and posted on Omnitrans' online bidding system. Three proposals were received by the April 8, 2015 deadline. Two were deemed responsive and evaluated in accordance with the evaluation criteria included in the Request for Proposals (RFP). The firms are ranked from highest to lowest score:

Criteria	Points Possible	Flyers Energy	Supreme Oil
Project Approach	50	48.33	41.67
Experience	15	14.00	12.50
Total Technical Score	65	62.33	54.17
Price	35	35.00	29.86
Total Score	100	97.33	84.03

Flyers Energy scored highest overall with the best technical approach and offered the lowest pricing. In response to Omnitrans' request for a Best and Final Offer, pricing remained as originally submitted.

	Flyers Energy		Supreme Oil	
	Margin	Price per gallon	Margin	Price per gallon
Company-owned/Contract Stations	0.065	\$2.6650*	-1.75% + 0.30	\$3.2475**
CFN Stations	0.13	\$2.7320*	0.40	\$3.2025*

*Per-gallon price including taxes when using the OPIS average for the period March 21-27, 2015.

**Per-gallon price including taxes when using the pump price average for the period March 21-27, 2015.

The usage of gasoline will diminish each year as the paratransit fleet is converted to compressed natural gas (CNG) fuel, with the first year's usage estimated at 193,000 gallons and declining to an estimated 7,000 gallons at the final year of the awarded period.

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

FUNDING SOURCES

The required services will be budgeted in the Operations Department's operating budget for Fiscal Years 2016 through 2020.

Department Number 2110, 2500
Expenditure Code 504100

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

CONCLUSION

By approving award of this contract, Omnitrans will meet its requirement for gasoline fueling services for the paratransit vehicles located at the Rancho Cucamonga facility.

PSG:JMS:CVM



CONTRACT AGREEMENT

between

CONTRACTOR)

Flyers Energy, LLC)

999 Bayhill Drive, Suite 165)

San Bruno, CA 94066)

(hereinafter "CONTRACTOR"))

Telephone: (650) 873-8200 x2515)

Email: lynno@4flyers.com)

And)

Omnitrans)

1700 West Fifth Street)

San Bernardino, CA 92411)

(hereinafter "OMNITRANS"))

CONTRACT DOCUMENTS

CONTRACT NO. OPS15-128

Fleet Fuel Card Services

Contract Amount: Not to exceed \$963,780

Omnitrans Project Manager:

Name: Frank Quass

Title: Operations Services Supervisor

Telephone: (909) 379-7212

Email: frank.quass@omnitrans.org

Contract Administrator:

Name: Christine Van Matre

Title: Contract Administrator

Telephone: (909) 379-7122

Email: christine.vanmatre@omnitrans.org



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ATTACHMENT A – SCOPE OF WORK

This Agreement is made and entered into as of this 1st day of July, 2015, by and between Omnitrans (hereinafter referred to as "OMNITRANS") and Flyers Energy, LLC (hereinafter referred to as "CONTRACTOR").

RECITALS

WHEREAS, OMNITRANS is a joint powers authority organized under Sections 6500 et seq. of the California Government Code 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 June 30, 2017, unless terminated as specified in Section 9 and 10 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 July 1, 2017 Through June 30, 2020, which period encompasses three option years.

3. COMPENSATION

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

87-Octane Regular Unleaded Gasoline per gallon margin based on OPIS Colton Rack:

1. Company-owned stations: \$0.065
2. Non-owned stations: \$0.13

OMNITRANS' maximum cumulative payment obligation under this Agreement shall not exceed Nine Hundred Sixty-Three Thousand Seven Hundred Eighty Dollars (\$963,780), 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

Or submit by email: accountspayable@omnitrans.org

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

- Contract number
- Invoice number
- Description of delivery
- Delivery Date

- Total quantity delivered
- Information as requested by OMNITRANS

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

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

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:

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

To CONTRACTOR:

Flyers Energy, LLC
999 Bayhill Drive, Suite 94066
Attn: Lynn Olson,
Director of Cardlock Operations

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: Frank Quass, Operations Services Supervisor.

- 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>
Lynn Olson	Director of Cardlock
Mickey Doughty	Account Manager

Philip Dwelle
Dori Garrett

Cardlock Operations
Customer Service 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. CONTRACT OPTION YEARS

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

12. LIQUIDATED DAMAGES

- A. Contractor's failure to provide services as per the requirements stated in the Agreement, and resulting in Omnitrans inability to fuel using the fuel card system, shall result in liquidated damages being assessed against the contractor.
- B. These damages shall be deducted from any monies due, or which may thereafter become due, to Contractor under this Contract.
- C. Force Majeure applies:
 - 1) When it is beyond the control of Contractor to provide the service requirements contained in this contract, the Liquidated Damages will be prorated accordingly.
 - 2) Omnitrans shall be the sole judge of the applicability of the Force Majeure clause as relates to Liquidated Damages.
- D. Specific Daily Liquidated Damages Amount
 - 1) Omnitrans and Contractor agree that in the event of any such fueling disruption the amount of damage which will be sustained shall be determined by Omnitrans' actual lost revenue and incurred expenses, but not to exceed \$250 per day per vehicle.
 - 2) Omnitrans and the Contractor agree that in the event of any such fueling disruption, the Contractor shall pay such amounts as liquidated damages and not as a penalty.

13. ASSIGNMENT

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

14. SUBCONTRACTING

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

Subcontractor's Name and Address

Work to Be Performed

N/A

15. INDEPENDENT CONTRACTOR

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

16. INSURANCE

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** Applicable to the work being performed, with a limit no less than \$1,000,000 per claim or occurrence and \$2,000,000 aggregate;

Additional Insured:

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

17. INDEMNITY

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

18. REVISIONS IN SCOPE OF WORK

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

19. RIGHTS IN TECHNICAL DATA

- A. No material or technical data prepared by CONTRACTOR under this Agreement is to be released by CONTRACTOR to any other person or entity except as necessary for the performance of the Work. All press releases or information concerning the Work that might appear in any publication or dissemination, including but not limited to, newspapers,

magazines, and electronic media, shall first be authorized in writing by OMNITRANS.

- B. The originals of all letters, documents, reports and other products and data produced under this Agreement shall become the property of OMNITRANS without restriction or limitation on their use and shall be made available upon request to OMNITRANS at any time. Original copies of such shall be delivered to OMNITRANS upon completion of the Work or termination of the Work. CONTRACTOR shall be permitted to retain copies of such items for the furtherance of its technical proficiency; however, publication of this material is subject to the prior written approval of OMNITRANS. The provisions of this paragraph shall survive termination or expiration of this Agreement and/or final payment thereunder.

20. OWNERSHIP OF REPORTS AND DOCUMENTS

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

21. OWNERSHIP RIGHTS

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

and interest in and to all OMNITRANS Intellectual Property in a manner consistent with the foregoing terms of this paragraph. Contractor shall execute any documents as OMNITRANS may from time to time reasonably request to effectuate the terms of this paragraph.

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

22. WORK FOR HIRE

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

23. SUBMITTAL OF CLAIMS BY CONTRACTOR

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

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

24. EQUAL OPPORTUNITY

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

25. STANDARD OF PERFORMANCE

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

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

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

27. DISQUALIFYING POLITICAL CONTRIBUTIONS

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

28. COMPLIANCE WITH LAW

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.

29. COMPLIANCE WITH LOBBYING POLICIES

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

30. PUBLIC RECORDS ACT

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

stake holder, retaining the material until otherwise ordered by a court. CONTRACTOR, at its sole expense and risk, shall be responsible for prosecuting or defending any action concerning the materials, and shall defend, indemnify and hold OMNITRANS harmless from all costs and expenses, including attorneys' fees, in connection with such action.

31. WAIVER/INVALIDITY

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

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

32. FORCE MAJEURE

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

33. CONFIDENTIALITY

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

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

- A. OMNITRANS shall review and approve in writing all OMNITRANS related copy proposed to be used by CONTRACTOR for advertising or public relations purposes prior to publication. CONTRACTOR shall not allow OMNITRANS related copy to be published in its advertisements and public relations programs prior to receiving such approval. CONTRACTOR shall ensure that all published information is factual and that it does not in any way imply that OMNITRANS endorses CONTRACTOR's firm, service, and/or product.

- B. CONTRACTOR shall refer all inquiries from the news media to OMNITRANS, and shall comply with the procedures of OMNITRANS' Public Affairs staff regarding statements to the media relating to this Agreement or the Work.
- C. If CONTRACTOR receives a complaint from a citizen or the community, CONTRACTOR shall inform OMNITRANS as soon as possible and inform OMNITRANS of any action taken to alleviate the situation.
- D. The provisions of this Article shall survive the termination or expiration of this Agreement.

35. GOVERNING LAW

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

36. MODIFICATIONS TO AGREEMENT

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

37. LICENSING, PERMITS AND INSPECTION COSTS

- A. The 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.

38. 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) provisions of RFP-OPS15-128 and (4) CONTRACTOR's proposal dated April 1, 2015 and Best & Final Offer dated May 13, 2015.

39. ENTIRE AGREEMENT

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

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

OMNITRANS

FLYERS ENERGY, LLC

P. Scott Graham
CEO/General Manager

Rick Teske
General Manager

DATE

DATE

Federal Tax I.D. No. 75-0916655

DP *PS*

CM

ATTACHMENT A – SCOPE OF WORK
OPS15-128
FLEET FUEL CARD SERVICES

1. STATEMENT OF PURPOSE

Contractor(s) shall provide fuel and fuel management services to Omnitrans for 87-octane regular gasoline for its West Valley Paratransit Facility vehicles during all Omnitrans' hours and days of operations throughout Omnitrans' paratransit service area. Services shall include providing fuel, the issuance of fuel cards to paratransit contractor's employees, and tracking and reporting of all fuel purchases. Contractor(s) must meet the minimum requirements stated in this scope of work.

2. PARATRANSIT FACILITY

West Valley Paratransit Facility:

- A. Omnitrans-leased facility located at 9421 Feron Blvd., Suite 101, Rancho Cucamonga, CA 91730.
- B. Houses paratransit contractor for Omnitrans' Access and OmniGo services.
- C. The paratransit contractor currently uses a gasoline fleet card system to purchase gasoline for their fleet of vehicles. On-site fueling is not currently available at this site.

3. HOURS AND DAYS OF OPERATION

- A. Hours: Monday – Friday, 4:00 a.m. – 11:00 p.m., excluding the following holidays: New Years' Day; Memorial Day; Fourth of July; Labor Day; Thanksgiving Day; and Christmas Day.
- B. Hours: Saturday – Sunday, 5:00 a.m. – 10:00 p.m., excluding the following holidays: New Years' Day; Memorial Day; Fourth of July; Labor Day; Thanksgiving Day; and Christmas Day.

4. SERVICE AREAS

- A. The Service Area covers the southwestern portion of San Bernardino County, to include the following cities:
 - 1) Bloomington
 - 2) Colton
 - 3) Fontana
 - 4) Grand Terrace
 - 5) Highland
 - 6) Loma Linda
 - 7) Mentone
 - 8) Redlands
 - 9) Rialto
 - 10) San Bernardino
 - 11) Yucaipa
 - 12) Chino
 - 13) Chino Hills
 - 14) Montclair

- 15) Ontario
- 16) Rancho Cucamonga
- 17) Upland

B. Omnitrans reserves the right to make changes to the service areas.

5. VEHICLES

The quantities of gasoline-operated vehicles currently in use are forty-four revenue vehicles and three support vehicles. The fleet will begin to convert to CNG-powered vehicles commencing the first year of services. See Section 6.B, Fuel Quantities/Usage.

6. ESTIMATED FUEL QUANTITIES

A. 87-Octane Regular Unleaded Gasoline

Omnitrans estimates a maximum need for the following gallons of 87-Octane regular unleaded gasoline:

- | | | |
|----|-------------------------------|---------|
| 1) | July 2015 – June 2016 (FY16): | 193,000 |
| 2) | July 2016 – June 2017 (FY17): | 125,000 |
| 3) | July 2017 – June 2018 (FY18): | 60,000 |
| 4) | July 2018 – June 2019 (FY19): | 7,000 |
| 5) | July 2019 – June 2020 (FY20): | 7,000 |

B. Usage

- 1) The reduction of estimated gasoline usage is related to the estimated conversion schedule of Omnitrans' fleet from gasoline to CNG-fueled vehicles.
- 2) It is mutually understood that Omnitrans is under no obligation to:
 - a) Purchase a minimum quantity of product and the annual quantities are best estimates.
 - b) Pay for any product other than Regular Unleaded 87-Octane gasoline.

7. CONTRACTOR RESPONSIBILITIES

A. Fuel

- 1) Contractor shall provide fuel and fuel management services for 87-octane regular unleaded gasoline to Omnitrans West Valley Paratransit Facility vehicles during all Omnitrans' hours and days of operations throughout Omnitrans' paratransit service area as stated in Section 3, Program Hours and Days of Operations.
- 2) Contractor shall provide one fuel fleet card for each enrolled vehicle and twelve spare fuel fleet cards. Cards shall be sent to Omnitrans inactive and shall require Omnitrans to call and activate cards prior to use.

- 3) Contractor shall assign unique Personal Identification Numbers (PIN) to each fuel card. The list of PIN numbers and the cards shall be mailed in separate envelopes to Omnitrans' Operations Services Supervisor.
- 4) Contractor shall provide spare fuel fleet cards to replace lost/stolen/non-working fleet cards as required by Omnitrans.
- 5) Fuel pumps shall be equipped with card readers at the pump islands to streamline the fueling process.
- 6) Fuel shall be dispensed/authorized when the driver/employee swipes the fuel fleet card and enters the unique PIN and vehicle odometer reading.
- 7) Fuel fleet cards shall be accepted for 87-octane regular unleaded gasoline only. No other products or services shall be purchased or authorized using the fuel fleet card.
- 8) Each fuel fleet card shall be limited to 50 gallons/day, unless changed by Omnitrans.
- 9) Omnitrans shall not be responsible for unauthorized purchases of other products or services, on reported lost, stolen, or canceled cards, or on purchases made outside the Omnitrans service area.

B. Customer Service/Help Desk

Contractor shall provide toll-free telephone access and telephone customer service support, at a minimum, during all Omnitrans' hours and days of operations as stated in Section 3, Hours and Days of Operations, to authorize additional drivers/employees, report lost or stolen cards, cancel cards, or make other account changes.

C. Management Reporting

- 1) Contractor shall provide on-line Internet account access to Omnitrans to review account activity and download account management reports in Microsoft Excel (xls) format.
- 2) Contractor shall provide Omnitrans a monthly statement that includes the following information:
 - a) The account number and other relevant account information;
 - b) All purchase transactions conducted by Omnitrans during the billing cycle at facilities located within the Omnitrans service area, including for each purchase the date, time and location of purchase, driver and vehicle identification, product type, price per gallon, number of gallons purchased, Federal Excise Tax, State Excise Tax, State Sales Tax, total fuel purchase in dollars, vehicle odometer readings, miles and miles per gallon. Omnitrans has an Exempt Bus Operator Use Fuel Tax License.

- 3) Monthly Billing Cycle shall extend from the first calendar day of one month to the last day of the month.

End of Scope of Work

ITEM # F10

DATE: June 3, 2015

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 CONTRACT – OPS15-02
PURCHASED TRANSPORTATION SERVICES**

FORM MOTION See link provided in email for copy of contract.

Authorize the CEO/General Manager to award Contract OPS15-02 to MV Transportation, Inc. of Dallas, TX, for the provision of Purchased Transportation Services to provide Access and OmniGo services for a two-year base period commencing July 1, 2015 and ending June 30, 2017, in an amount not to exceed \$17,245,288.10, and the authority to exercise three single option years ending no later than June 30, 2020, in an amount not to exceed \$29,684,630.02, for a total not-to-exceed amount of \$46,929,918.12, plus a ten percent contingency of \$4,692,992, for a total not-to-exceed amount of \$51,622,910.12, if all option years are exercised.

BACKGROUND

Omnitrans utilizes the services of a Contractor to operate its mandated paratransit services (Access) and OmniGo service, a limited fixed-route service. The current contract for these services expires August 31, 2015.

On February 4, 2015, Omnitrans' Board of Directors approved release of Request for Proposals RFP-OPS15-02, for Purchased Transportation Services to operate Omnitrans' Access and OmniGo services and the option to operate Express, Omnitrans' new commuter freeway service. Notices were published in two newspapers of general circulation and posted on Omnitrans' online bidding system.

Two proposals were received by the April 6, 2015 deadline and both were deemed responsive. A total of 110 points were possible, including ten bonus points, as the State of California Labor Code 1072, Chapter 4.6 Public Transit Service Contracts states, in part, that an awarding authority soliciting for a service contract shall give a ten percent preference to any proposer who agrees to retain the employees of the prior contractor or subcontractor pursuant to a proposer declaring it will retain the employees of the prior contractor for a period of not less than ninety days. Both firms proposed to retain the prior contractor's employees and also proposed subcontracting with American Cab to improve upon Access service and decrease costs. The

following firms were evaluated for all services, including Access, OmniGo and the Express option, in accordance with the evaluation criteria included in the RFP and are ranked from highest score to lowest score:

Criteria:	Possible Points	MV Transportation	First Transit
Qualifications and Availability of Proposed Staff	25	18.95	18.10
Quality of Technical Approach	25	20.95	19.90
Experience	20	15.80	15.32
Interview / Presentation	15	11.64	10.95
Technical Total	85	67.34	64.27
Cost / Price	15	15.00	14.69
Bonus Points	10	10.00	10.00
Total	110	92.34	88.96

Both firms were identified to be within the competitive range and were requested to submit Best and Final Offers. First Transit offered a savings of 4% over its original price and MV Transportation offered a savings of 7%.

Criteria:	Possible Points	MV Transportation	First Transit
Technical Total	85	67.34	64.27
Cost/Price	15	15.00	14.34
Bonus Points	10	10.00	10.00
Total	110	92.34	88.61

Omnitrans' optional Express service was included in the evaluation, but is not being recommended for award at this time. Should Omnitrans choose to exercise this option, the matter will be brought back to the Board at a future date for approval.

MV Transportation's proposal received the highest score, offers the lowest pricing and exceeds the requirements of the RFP. The proposal offers a good approach to provide service quality, safety and reliability. Additionally, their proposed technology enhancements include additional Trapeze elements and MV Transportation's proprietary enterprise software, TimePoint, which provides improved data analysis. Proposed staff is well-qualified and has experience working with compressed natural gas (CNG) cutaways. Also, MV Transportation guarantees that if the contract is terminated for unsatisfactory service, profits made by MV Transportation from this contract during the final twelve months during the period prior to the termination will be refunded to Omnitrans.

Current Access/OmniGo contract revenue hourly rate is \$37.64. MV Transportation proposed revenue hourly rates range from \$32.12 (OmniGo) and \$32.69 (Access) for the first base year up to \$34.11 (OmniGo) and \$35.05 (Access) for the fifth year.

The Independent Cost Estimate (ICE) anticipated costs for Access/OmniGo service for five years at \$55,981,951, with additional startup costs at \$581,000 and Express service at \$3,124,700. MV Transportation proposed pricing for Access/OmniGo at \$46,607,862.48 with additional \$322,056 startup costs, and Express at \$1,882,406.88. First Transit proposed Access/OmniGo at \$48,832,199 (no startup costs) and Express at \$2,216,012.41. As MV Transportation's pricing came in lowest through competition and less than the ICE, price is deemed fair and reasonable.

This procurement meets the requirements of Omnitrans' procurement policies and procedures.

FUNDING SOURCE

The required services will be budgeted in the Operations Department's operating budget for Fiscal Years 2016 through 2020.

Department Number 2110, 2500
Expenditure Code 508220

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

CONCLUSION

By awarding this contract, Omnitrans will continue to meet its legal obligation to provide paratransit services and have the option to expand Contractor-provided fixed route services and reduce operating expense by fifteen percent.

PSG:JMS:CVM