



BOARD OF DIRECTORS MEETING
WEDNESDAY, JANUARY 4, 2017 – 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, February 1, 2017 – 8:00 a.m.
Omnitrans Metro Facility Board Room

C. COMMUNICATIONS FROM THE PUBLIC

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

D. POSSIBLE CONFLICT OF INTEREST ISSUES

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

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 #E11 Action on Consent Calendar.

- | | |
|---|----|
| 1. Approve Board Minutes – December 7, 2016 | 5 |
| 2. Receive and File Executive Committee Minutes – September 2, 2016 | 14 |
| 3. Receive and File Administrative and Finance Committee Minutes – November 10, 2016 | 16 |
| 4. Receive and File Construction Progress Report No. 53 through November 30, 2016 – sbX E Street Corridor BRT Project | 20 |
| 5. Approve Re-Evaluation of Office Administrator to Office Manager | 28 |



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E. CONSENT CALENDAR CONTINUED

- | | |
|---|----|
| 6. Authorize Release, Request for Proposals – RFP-HRS17-56, Leadership Programs | 54 |
| 7. Authorize Release, Invitation for Bids – IFB-ITS17-46, Datacenter and Hardware Refresh | 56 |
| 8. Authorize Release, Invitation for Bids – IFB-ITS17-60, Network Monitoring and Ticketing Software Licensing | 58 |
| 9. Adopt Resolution No. 295-17, Authorizing Destruction of Records | 60 |
| 10. Press Articles and Letters of Interest | 63 |
| 11. 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 | 79 |
| 2. West Valley Connector - Assignment to San Bernardino County Transportation Authority | 80 |
| 3. Authorize Award – Contract ADM17-29, General Counsel Legal Services | 82 |
| 4. Authorize Award – Contract MNT17-59, Twenty-Three Americans with Disabilities Act Certified Paratransit Vehicles | 144 |

G. PUBLIC HEARING

There is no Public Hearing Scheduled.

H. BOARD BUSINESS

Closed Session

1. There is no Closed Session Scheduled.

I. REMARKS AND ANNOUNCEMENTS

J. ADJOURNMENT

ITEM # D1

DATE: January 4, 2017

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

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Jennifer M. Sims, Director of Procurement

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

FORM MOTION

Staff hereby provides a listing of principals and subcontractors associated with action items on the agenda for the Board of Director's Meeting scheduled January 4, 2017.

Item	Contract	Principals & Agents	Subcontractors
F3	Contract ADM17-29 General Counsel Legal Services	<i>Best Best & Krieger, LLP Riverside, CA Steven Debaun Partner</i>	N/A
F4	Contract MNT17-59 Twenty-Three Americans with Disabilities Act Certified Paratransit Vehicles	<i>Creative Bus Sales Chino, CA Anthony Matijevitch President</i>	N/A

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

1. 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: _____
2. 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: _____
3. 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

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

Identify company or property location
2. 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 DECEMBER 7, 2016**

A. CALL TO ORDER

Chairman Sam Spagnolo called the regular meeting of the Omnitrans Board of Directors to order at 8:02 a.m., Wednesday, December 7, 2016, at the Omnitrans Facility located at 1700 West 5th Street, San Bernardino, California.

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

BOARD MEMBERS PRESENT

Mayor Pro Tem Sam Spagnolo, City of Rancho Cucamonga – Chairman
Council Member Ron Dailey, City of Loma Linda – Vice Chairman
Mayor Richard DeLaRosa, City of Colton
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
Mayor Ray Musser, City of Upland
Supervisor James Ramos, County of San Bernardino
Council Member Dick Riddell, City of Yucaipa
Council Member John Roberts, City of Fontana
Mayor Pro Tem Sylvia Robles, City of Grand Terrace
Supervisor Janice Rutherford, County of San Bernardino
Mayor Eunice Ulloa, City of Chino
Council Member Alan Wapner, City of Ontario

BOARD MEMBERS NOT PRESENT

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

OMNITRANS' ADMINISTRATIVE STAFF PRESENT

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

LEGAL COUNSEL

Erica Vega, Legal Counsel

B. ANNOUNCEMENTS/PRESENTATIONS

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

C. COMMUNICATIONS FROM THE PUBLIC

1. Jeffrey DeFillipes described a situation he recently experienced regarding a bus driver who was rude and unprofessional. He mentioned that the majority of the drivers were pleasant and stated that the drivers should be professional and courteous to the customers.
2. Patricia Sachs mentioned a business opportunity that could be beneficial for Omnitrans and provided Wendy Williams, Marketing-Planning Director with the information in writing. She stated that she travelled from Muscoy to attend today's meeting and expressed her support for Omnitrans.
3. Luke Conner Sr. described a recent situation he experienced where he missed a very important appointment because the bus never arrived. He expressed his frustration due to the lack of notification regarding bus status. Mr. Conner mentioned that he was happy with the sbX service, however asked that updates be provided to the customers when there are delays in service. He also asked that staff ensure a backup bus be dispatched immediately should there be any service disruptions.

Board Member Hagman arrived at 8:12 a.m.

D. POSSIBLE CONFLICT OF INTEREST ISSUES

There were no Conflict of Interest Issues.

E. CONSENT CALENDAR

1. Approve Board Minutes – November 2, 2016
2. Receive and File Administrative and Finance Committee Minutes – October 13, 2016
3. Receive and File Construction Progress Report No. 52 through October 31, 2016 – sbX E Street Corridor BRT Project
4. Authorize CEO/General Manager to Take Steps Necessary for Right-of-Way Closeout for San Bernardino Transit Center
5. Authorize Release, Request for Proposals RFP-MNT17-57, Uniform And Textile Services
6. Authorize Release, Request for Proposals RFP-PRC17-51, Online Bidding System

M/S (Graham/DeLaRosa) that approved Consent Calendar. Motion was unanimous by Members present.

F. DISCUSSION ITEMS

1. CEO/General Manager's Report

CEO/General Manager P. Scott Graham reported that Omnitrans staff was working with San Bernardino Associated Governments (SANBAG) staff on the Redlands Rail Project Memorandum of Understanding (MOU). He stated that the draft was being finalized and staff planned to present the item to the Board in February or March.

Mr. Graham also mentioned that applications were reviewed for the Director of Rail and Rail Compliance Officer positions and in-person interviews were scheduled to take place at the end of January.

Mr. Graham reported that bids went out for the Diesel Multiple Units (DMU) and there were three potential bidders for that project. He stated that the anticipated timeline for the final bids to be submitted was approximately four months.

Lastly, Mr. Graham reported that Omnitrans supported the "Day of Remembrance" on December 2, 2016, and provided free rides for customers riding the sbX bus to Cal State San Bernardino.

2. Adopt Calendar Year 2017 Board Meeting Schedule

Member Rutherford referred to the August Board meeting date listed on the 2017 schedule and mentioned that SANBAG would be dark in August. She asked if the Board would consider going dark for the August 2, 2017 meeting. Chair Spagnolo

recommended that the January 4, 2017 meeting also be dark unless there was a need to have one. CEO/General Manager Graham agreed to follow up with the Board if a meeting in January was needed.

M/S (Gilbreath/Rutherford) that adopted the Calendar Year 2017 Board Meeting Schedule with changes to include the cancellation of the August 2, 2017 meeting and the January 4, 2017 meeting, pending staff's notification of the need for a meeting. Motion was unanimous by Members present.

3. Authorize CEO/General Manager to Establish Position of Deputy General Manager as Contract Position and Negotiate Salary and Benefits

Member Lilburn left the room at 8:17 a.m.

Member Gonzales left the room at 8:20 a.m.

M/S (Wapner/Roberts) that authorized the CEO/General Manager to establish the position of Deputy General Manager as a contract position and negotiate salary and benefits for the position within or up to the market salary study completed in 2016 on a not to exceed the salary base of \$190,116. Motion was unanimous by Members present.

4. Authorize Award, Contract MKP17-18 – Passenger and sbX Corridor Business Surveys

Members Lilburn and Gonzales returned at 8:20 a.m.

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

5. Authorize Award, Contract MNT17-04, HVAC and Energy Management System (EMS) Maintenance Services

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

6. Authorize Award, Contract MNT17-15, Paint and Carpet Replacement and Installation

M/S (DeLaRosa/Robles) that authorized the CEO/General Manager to award Contract MNT17-15 to Corner Keystone Construction Corp, of Walnut, CA, for the provision of Paint and Carpet Replacement and Installation in the amount of \$148,482, plus a ten

percent contingency of \$14,848, for a total not-to-exceed amount of \$163,330. Motion was unanimous by Members present.

Member Musser left the room at 8:24 a.m.

Member Ramos arrived at 8:26 a.m.

7. Authorize Award, Contract MNT17-39, Landscaping Services

M/S (Wapner/Gilbreath) that authorized the CEO/General Manager to award Contract MNT17-39 to RP Landscape and Irrigation of San Bernardino, CA, for the provision of Landscaping Services for a three (3) year base period with the authority to exercise two (2) single option years ending no later than January 11, 2022, in the amount of \$308,532, with the option to provide services at the San Bernardino Downtown Metrolink Station in the amount of \$25,440, a repair allowance in the amount of \$50,096, plus a ten percent contingency of \$38,407, for a total not-to-exceed amount of \$422,475, should all options be exercised. Motion was unanimous by Members present.

Member Musser returned at 8:27 a.m.

G. PUBLIC HEARING

1. Open and Conduct Public Hearing – To Determine the Responsibility of Patten Energy Enterprises, Inc.; Close Public Hearing and Make Finding

Chair Spagnolo called the Public Hearing to order at 8:27 a.m.

Legal Counsel Erica Vega provided the staff report. She explained that the item being presented related to Invitation for Bids (IFB) MNT16-109R for Miscellaneous Bulk Oils and Lubricants. She explained that Patten Energy Enterprises was the lowest responsive bidder in that solicitation; however, based on information presented by staff and in working together with legal counsel, the preliminary determination was made that Patten Energy Enterprises, Inc., was deemed “not” responsible. Ms. Vega explained that under California law, “responsible bidder” was identified as a firm who was trustworthy and capable of performing the contract satisfactorily. She also explained that under California law, if an agency determined that a bidder was not responsible, due process must be afforded, thus the purpose of today’s public hearing. Ms. Vega continued by explaining that by law, the bidder must be provided with the information in advance and be given the opportunity to have a Public Hearing.

Ms. Vegas indicated that a notice was provided to Patten Energy Enterprises and a Public Hearing was requested. She restated the evidence of non-responsibility included in the staff report for the record, as follows:

- 1) Based on Omnitrans’ experience with Patten Energy Enterprises where they were awarded a contract for coolant, the contract had to be terminated based on the provision that the coolant did not meet the specifications provided in the scope of services. On June 10, 2015, Omnitrans issued a Notice to Cure the defects and

received a response the same day stating that the product would be provided that would meet the specifications. Subsequent product deliveries were tested and only one of three met the specifications required. After several unsatisfactory product deliveries, the contract was terminated.

- 2) This bid required the vendor to submit a form regarding the status of past and present contracts that were terminated for cause or not for cause and the Omnitrans contract was listed, stating that their product was only five points off specification, which was within market conditions. However, testing revealed that the product was over 20 points off specification. After the Notice to Cure was issued, the results ranged from seven to 11 points off specification, therefore incorrect information was stated on their form. The contract clearly stated that the product specifications needed to be adhered to and did not include a provision allowing any deviations.

Ms. Vega stated that on November 16, 2016, subsequent to the Notice to Cure being provided to Patten Energy Enterprises Inc., the Sheriff's Department informed Omnitrans that 17 criminal charges had been filed against Ezekiel Patten Jr. and a driver from Patten Energy Enterprises, Inc. These charges included theft, counterfeiting, and intentionally writing insufficient checks whereas Omnitrans was listed as a "victim" in the filing. Ms. Vega stated that no arraignment had been set and all of the information regarding the charges was preliminary. Lastly, Ms. Vega stated that this Board could make a determination of responsibility based on substantial evidence provided and it would stand in court.

Chair Spagnolo called on the representatives from Patten Energy Enterprises, Inc. who wished to address the Board.

Ezekiel Patten Jr. identified himself as the owner of Patten Energy Enterprise Inc., and stated that he began his own business in 1990 noting that he was an ADA - certified firm. He referred to Omnitrans contract for coolant and stated that he purchased the coolant from a supplier that came in at 49% when tested, therefore his driver had to take the product back and return another day. He explained that when his driver arrived to deliver the product, the refractor was not working properly; therefore, the product could not be received at that time. He attempted to contact his chemist via a phone call to provide more information.

Member Wapner asked if it was appropriate to have the witness call in on the phone. Legal Counsel Vega stated that it was not and explained that in order for a witness to testify at a hearing, the person would need to be physically present or submit a statement in writing.

Mr. Patten expressed his frustration with regards to the procurement process. Mr. Patten listed the names of various agencies his company had worked with throughout California and stated that he had never encountered this situation with any other agency. He asked that the Board reevaluate the contract bidding process and felt that Omnitrans needed to be fair with small suppliers.

Chair Spagnolo clarified that the issue here was not about the bidding process, but rather about the quality of the product.

Member Dailey asked Mr. Patten if the only issue was with Omnitrans and asked if he had any type of experience such as this one with any other company. Mr. Patten responded that he had not.

Chair Spagnolo asked if there were any members of the public who wished to speak for or against Patten Energy. There were no additional questions or comments from the public.

Close Public Hearing – Chair Spagnolo officially closed the public hearing.

Chair Spagnolo asked for any comments or questions from members of the Board.

Member DeLaRosa asked legal counsel to restate the Omnitrans Policy under the section outlining a “responsible bidder” in addition to the specifications for this particular contract that were found. Ms. Vega stated that the evidence presented to the Board was for the purpose to determine if Patten Energy Enterprise, Inc., was or was not responsible and demonstrated trustworthiness, quality, fitness, capacity, and experience to satisfactorily perform this contract. She clarified that this decision was not a debarment or suspension and was solely with respect to this contract.

Member Ramos asked legal counsel if, in her opinion, the requirements were not met. Ms. Vega responded that with the evidence presented both orally and in the report would constitute evidence to make that finding. She stated that the decision made for this item would inform the recommendation on the next agenda item, which was the award of the contract.

Member Wapner referred to a comment made by Mr. Patten stating that Omnitrans was the only agency he had an issue with. He asked if that information had been verified. Ms. Vega responded that Omnitrans was the only agency to have terminated for cause; however, in the criminal charges mentioned earlier, Omnitrans was listed as one of several victims.

Member Ramos asked if the legal proceedings moving forward would preclude Patten Energy Enterprises Inc. to bid on future contracts. Ms. Vega explained that at the last Board meeting, the Board approved a debarment and suspension policy that would need to be adhered to. She explained that at this point, she could not determine the impact to a future contract pending the outcome of the criminal charges, which may have an impact.

Recommendation is that Patten Energy Enterprises be found not to be a responsible bidder with respect to IFB-MNT-16-109R1 for Miscellaneous Bulk Oils and Lubricant.

Member Gonzales asked if the terminology was clear in regards to specifications being adhered to and potential grounds for contract termination. Ms. Vega confirmed it was clearly stated in the specifications, which did not allow for any deviations. She further

explained that the Scope of Work included in the contract addressed contract termination conditions.

Member Dailey left the room at 8:43 a.m. and returned at 8:50 a.m. for the roll call vote. Member Musser left the room at 8:50 a.m. and was not present for the roll call vote.

M/S (Wapner/Graham) that determined Patten Energy Enterprises, Inc., be found not to be a responsible bidder with respect to IFB-MNT-16-109R1 for Miscellaneous Bulk Oils and Lubricants.

Roll Call vote was taken.

Ayes: Members Hagman, Rutherford, Robles, Wapner, Roberts, Lilburn, Dailey, Spagnolo, Graham, Riddell, Ulloa, Gilbreath, and Ramos.

Noes: DeLaRosa, Gonzales

The motion passed with 13 votes for and two opposed.

F. DISCUSSION ITEMS CONTINUED

8. Authorize Award, Contract MNT16-109(A-E), Miscellaneous Bulk Oils and Lubricants

M/S (Hagman/Robles) that authorized the CEO/General Manager to award Contracts MNT16-109 (B-E) as listed below for provision of Miscellaneous Bulk Oils and Lubricants. Contract duration shall be for a three (3) year base period beginning December 7, 2016 and ending December 6, 2019 in the aggregate amount of \$449,116, and the authority to exercise two (2) single year options tied to the Consumer Price Index (CPI) in an aggregate amount not to exceed \$349,543, extending the contracts to no later than December 6, 2021, for a total not-to-exceed amount of \$798,660, should all option years be exercised;

List of contracts for authorization:

Contract No.	Contractor
MNT16-109B	Rosemead Oil Products, Inc., Santa Fe Springs, CA
MNT16-109C	Dion & Sons, Inc., Long Beach, CA
MNT16-109D	Safety-Kleen Systems, Inc., Richardson, TX
MNT16-109E	Merit Oil Company, Bloomington, CA

Motion was unanimous by Members present.

H. BOARD BUSINESS

Closed Session

The Board adjourned to Closed Session at 8:52 a.m.

1. Conference with Labor Negotiator P. Scott Graham concerning labor negotiations with Teamsters Union Local No. 166 regarding the Maintenance and Administrative Support Unit, pursuant to Government Code Section 54957.6
2. Conference with Labor Negotiator P. Scott Graham concerning labor negotiations with Amalgamated Transit Union Local No. 1704 regarding the Coach Operator Unit, pursuant to Government Code Section 54957.6

Open Session reconvened at 9:11 a.m. with no reportable action.

Open Session

2. Approve Memorandum of Understanding (MOU) between Omnitrans and Amalgamated Transit Union Local #1704, for the Coach Operator Unit, effective April 1, 2016

Members Wapner and Gonzales were not present for the vote on Item H2.

M/S (Musser/Roberts) that approved the Memorandum of Understanding (MOU) between Omnitrans and Amalgamated Transit Union Local #1704, for the Coach Operator Unit, effective April 1, 2016 through March 31, 2019.

I. REMARKS AND ANNOUNCEMENTS

Member Robles thanked staff for putting together a great training program and a fine report.

Member Roberts welcomed former Chair Ulloa back to the Board.

Member DeLaRosa referred to the Public Speaker who commented on bus status notification. He asked if a procedure was in place that provided information on late or canceled buses. CEO/General Manager Graham responded that an electronic timetable provided the bus times; however, perhaps a notification could be added with the delayed bus arrival times.

Chair Spagnolo thanked Member Musser for his service on the Omnitrans Board and wished him well.

J. ADJOURNMENT

The Board adjourned at 9:15 a.m. The next regular meeting is scheduled Wednesday, January 4, 2017, at 8:00 a.m., with location posted on the Omnitrans website and at Omnitrans' San Bernardino Metro Facility.

Prepared by:

Araceli Barajas, Executive Staff Assistant



**EXECUTIVE COMMITTEE MEETING
MINUTES
SEPTEMBER 2, 2016**

Member Dailey arrived at 9:11 a.m.

2. First Responder Recognition at San Bernardino Transit Center - Update

Andres Ramirez, IPMO Program Manager, has provided three renderings, which Scott circulated to the Members present and emailed to Members Graham and Wapner. Member Lilburn also shared a download of a similar memorial she found on-line, and Scott said he welcomes comparable information from all Board Members. Members questioned why three American flags? Our intention is to have one American flag, one California State flag, and rotate the third flag among all branches of the Military. Committee Members asked Scott to prepare a proposed budget, and he said he would, and that Omnitrans plans to solicit donations in support of the costs.

F. BOARD BUSINESS

Closed Session - Committee convened to Closed Session at 9:21 a.m.

1. Conference with Labor Negotiator P. Scott Graham concerning Unrepresented Employees – Management Confidential Classifications – pursuant to Government Code Section 54957.6

The Committee reconvened to Open Session at 9:39 a.m., with no reportable action to report.

G. REMARKS AND ANNOUNCEMENTS

There were no remarks or announcements.

H. ADJOURNMENT

The Committee adjourned at 9:40 a.m. The next Executive Committee Meeting is scheduled Friday, September 30, 2016, at 9:00 a.m., with location posted on the Omnitrans website and at the Omnitrans San Bernardino Metro Facility.

Prepared by:

Christine Vega, Administrative Secretary

ITEM # E3

**ADMINISTRATIVE & FINANCE COMMITTEE
MINUTES, NOVEMBER 10, 2016**

A. CALL TO ORDER

Chairman Ed Graham called the regular meeting of the Administrative and Finance Committee to order at 8:04 a.m., Thursday, November 10, 2016.

1. Pledge of Allegiance
2. Roll Call

Committee Members Present

Council Member Ed Graham, City of Chino Hills – Committee Chair
Mayor Carey Davis, City of San Bernardino
Council Member Patricia Gilbreath, City of Redlands
Supervisor Curt Hagman, County of San Bernardino
Council Member Dick Riddell, City of Yucaipa
Mayor Pro Tem Sylvia Robles, City of Grand Terrace
Council Member Alan Wapner, City of Ontario – via Teleconference

Committee Members Not Present

Mayor Paul Eaton, City of Montclair
Council Member John Roberts, City of Fontana

OmniTrans Administrative Staff Present

P. Scott Graham, CEO/General Manager
Diane Caldera, Director of Operations
Jack Dooley, Director of Maintenance
Marge Ewing, Director of Human Resources/Safety & Security
Sam Gibbs, Director of Internal Audit
Jacob Harms, Director of Information Technology
Andres Ramirez, IPMO Program Manager
Jennifer Sims, Director of Procurement
Don Walker, Director of Finance
Maurice Mansion, Treasury Manager
Omar Bryant, East Valley Maintenance Manager
Anna Jaiswal, Development Planning Manager
Vicki Dennett, Senior Executive Assistant to the CEO/General Manager

B. ANNOUNCEMENTS/PRESENTATIONS

The next Committee Meeting is scheduled Thursday, December 15, 2016, at 8:00 a.m.

Member Davis announced that at 6:30 on December 2 there will be a remembrance at Cassoulis Arena on the CSUSB campus.

Member Gilbreath mentioned two upcoming events in Redlands – on Friday 11/11 at 10:00 a.m. there will be a Veteran's Day parade, and on December 3 there will be a Christmas Parade in the evening.

CEO/General Manager P. Scott Graham said that the ATU has voted Jeff Caldwell out of office, effective January 1, 2017.

C. COMMUNICATIONS FROM THE PUBLIC

There were no communications from the public.

D. POSSIBLE CONFLICT OF INTEREST ISSUES

There were no conflict of interest issues identified.

E. DISCUSSION ITEMS

1. Approve Administrative & Finance Committee Minutes – October 13, 2016

M/S (Hagman/Gilbreath) that approved the Committee Minutes of October 13, 2016. Motion was unanimous by Members present.

2. Recommend the Board of Directors Receive and File Construction Progress Report No. 52 through October 31, 2016 – sbX E Street Corridor BRT Project

IPMO Program Manager Andres Ramirez presented this item. Tenth to Highland final acceptance and closeout are ongoing. The PA system submittals are being prepared and materials being procured. TSP management along the corridor is being worked on. The VMF modification work contract was awarded and executed, and scheduled for completion in February 2017. We still expect to complete the project as budgeted at \$188 million.

Member Robles arrived at 8:08 a.m.

Member Davis said that the Veteran's Day Parade which took place on E Street in San Bernardino last weekend went very smoothly, thanks in part to the improved condition of the roadway.

This report was approved to move forward to the Board of Directors for receipt and file.

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

Finance Director Don Walker presented this item. Prices continue to be low, remaining at an average of \$0.74 per gallon, about \$0.08 higher than the budgeted amount of \$0.66 per gallon. The preliminary numbers for October 2016 show natural gas costs of \$299,993 against the budgeted amount of \$207,278, or 45% over budget for the month. It was anticipated that cost per gallon of natural gas would exceed the budget the first half of the fiscal year; once the pipeline fueling infrastructure is operational, the cost will decrease. Finance Director Don Walker will continue to monitor and report to this committee.

This item was received and filed.

4. Recommend the Board of Directors Authorize CEO/General Manager to Take Steps Necessary for Right-of-Way Closeout for San Bernardino Transit Center

Member Hagman arrived at 8:13 a.m.

Development Planning Manager Anna Jaiswal presented this item, discussing the four steps necessary to accomplish closeout for the San Bernardino Transit Center. Member Hagman asked about joint development and whether funds would have to be returned to SANBAG since they originally purchased the property. Committee Chair Ed Graham directed CEO/General Manager P. Scott Graham to send a memo to this committee explaining how this would have to be handled. About \$4 million came from SANBAG; the remaining \$22 million came from Omnitrans.

M/S (Hagman/Gilbreath) that recommended the Board of Directors authorize the CEO/General Manager to take all steps necessary to execute the following actions for the right-of-way closeout for the San Bernardino Transit Center:

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

Motion was unanimous by Members present.

F. BOARD BUSINESS

Closed Session

The Board adjourned to Closed Session at 8:34 a.m.

1. Conference with Labor Negotiator P. Scott Graham concerning Unrepresented Employees – Management Confidential Classifications – pursuant to Government Code Section 54957.6

Open Session reconvened at 8:43 a.m. with no reportable action.

G. ADJOURNMENT

The Administrative and Finance Committee meeting adjourned at 8:44 a.m.

The next Administrative and Finance Committee Meeting is scheduled Thursday, December 15, 2016, at 8:00 a.m., with location posted on the Omnitrans website and at Omnitrans' San Bernardino Metro Facility.

Prepared by:

Christine Vega, Administrative Secretary

ITEM # E4

DATE: January 4, 2017

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

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Andres Ramirez, Program Manager

**SUBJECT: CONSTRUCTION PROGRESS REPORT NO. 53 THROUGH
NOVEMBER 30, 2016 – sbX E STREET CORRIDOR BRT PROJECT**

FORM MOTION

Receive and file Construction Progress Report No. 53 for the sbX E Street Corridor BRT Project through November 30, 2016.

This item was reviewed by the Administrative and Finance Committee at its December 15, 2016, meeting, and recommended for receipt and file.

BACKGROUND

This is Construction Progress Report No. 53 for the sbX E Street Corridor Project.

CONCLUSION

Receive and file Construction Progress Report No. 53 for the sbX E Street Corridor BRT Project through November 30, 2016.

PSG:AR

Attachment

**sbX E Street Corridor
Bus Rapid Transit (BRT) Project
Construction Progress Report No. 53**

November 30, 2016

Prepared By:

**Omnitrans
Integrated Project Management Office**

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

Contractor Contract No.: IPMO11-5

Omnitrans Program Manager: Andres Ramirez



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- IV. Project Budget and Cost

I. PROJECT STATUS SUMMARY

A. Project Description

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

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

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

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

B. Summary Status Update

E Street Corridor:

10th to Highland:

- Final acceptance and Close Out on going.
- Final Change Order documents have been sent to the Contractor.



sbX Coach rolling on new roadbed



Improved roadway, San Bernardino

PA System:

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

Traffic Signal Synchronization:

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

Vehicle Maintenance Facility:Contract Closeout

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

Modification Work

- Contract executed; kick off meeting held.
- Electrical work started.
- Completion projected for March 2017.

II. PROJECT SCHEDULE

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

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

III. SAFETY

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

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

IV. PROJECT BUDGET AND COST

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

Total Project Budget Summary
Budget as of October 31, 2016

Approved Budget	\$191,706,000
Cost to Date	\$185,298,289
Estimate to Complete	
Corridor Project	\$ 2,468,748
10 th to Highland	\$ 955,191
Estimate at Completion	\$188,646,864

Budget By Contract Packages								(Contract Award + Approved Changes)		(Approved Current Budget- Committed)	Forecast		
31-Oct-2016											Potential Uses of Contingency		
					% of Approved Current Budget	Contracts Awarded	Approved Changes		Expenditure Authorization Remaining	Remaining Contingency	Pending Commitments/ Potential Changes	Trends/Risks	Estimate At Completion
	PCGA Budget	Approved Current Budget	Authorized for Expenditure	Expended to Date				Committed					
BRT Construction													
Griffith/Comet JV	90,780,000	84,637,000	87,760,263	81,238,395	96.2%	64,937,853	16,365,742	81,303,595	6,456,668	3,333,405	-	-	81,303,595
Art			68,000	68,000		68,000	-	68,000	-	(68,000)	-	-	68,000
Other Direct Payments			48,401	57,197		57,197	-	57,197	(8,796)	(57,197)	-	-	57,197
Delineators				70,991		89,943	(18,952)	70,991	(70,991)	(70,991)	-	-	70,991
PA System				-		563,875	-	563,875	(563,875)	(563,875)	56,388	-	620,263
Miscellaneous Work				-		17,500	-	17,500	(17,500)	(17,500)	75,000	75,000	167,500
BRT Design													
Parsons	19,193,400	17,849,400	18,097,876	19,134,095	107.6%	16,464,092	3,725,637	20,189,729	(2,091,853)	(2,340,329)	(1,334,545)	-	18,855,185
PA System				71,300		83,000	-	83,000	(83,000)	(83,000)	8,300	-	91,300
Miscellaneous Work				-		-	-	-	-	-	-	-	-
VMF Construction - USS Cal Builders	5,370,000	8,131,000	14,498,152	14,539,965	178.8%	10,579,786	3,955,349	14,535,135	(36,983)	(6,404,135)	866,700	-	15,401,835
VMF Design													
STV	1,007,600	1,007,600	1,418,132	1,904,030	190.8%	951,029	1,048,727	1,999,756	(581,624)	(992,156)	-	-	1,999,756
Carlin Environmental			27,800	18,380		10,000	9,800	19,800	8,000	(19,800)	-	-	19,800
Vehicles Design & Manufacturing-N.F.	16,628,000	16,628,000	15,978,093	15,211,154	92.5%	15,483,572	(272,418)	15,211,154	766,939	1,416,846	-	-	15,211,154
Other Vehicle Equipment			318,853	173,484		318,853	(145,369)	173,484	145,369	(173,484)	-	-	173,484
ROW Acquisition Services-SANBAG	6,532,000	10,357,000	11,738,400	11,418,850	110.3%	10,971,135	447,715	11,418,850	319,550	(1,061,850)	-	-	11,418,850
3rd Party Utilities Design & Reloc.		1,003,000	1,157,223	1,106,705	110.3%	1,174,205	-	1,174,205	(16,982)	(171,205)	50,000	-	1,224,205
Project Admin. And Management													
Jacobs	6,638,000	6,632,000	11,852,647	12,969,303	195.6%	3,898,769	9,070,534	12,969,303	(1,116,656)	(6,337,303)	-	-	12,969,303
Other													
IPMO	17,624,000	15,012,450	14,722,701	14,813,658	98.7%	15,006,001	(192,343)	14,813,658	(90,957)	198,792	-	-	14,813,658
Insurance	1,113,000	1,112,000	500,000	-	0.0%	500,000	(500,000)	-	500,000	1,112,000	-	-	-
Legal-BB&K, County	2,525,450	1,000,000	1,000,000	374,686	37.5%	1,000,000	(527,136)	472,864	527,136	527,136	-	-	472,864
In Kind Contributions	8,080,550	8,080,550	8,080,550	8,401,239	104.0%	8,401,239	-	8,401,239	(320,689)	(320,689)	-	-	8,401,239
Survey	1,464,000	1,463,000	464,000	-	0.0%	25,000	(25,000)	-	464,000	1,463,000	-	-	-
Start-Up	720,000	720,000	700,000	-	0.0%	-	-	-	700,000	720,000	700,000	-	700,000
Sub-Total	177,676,000	173,633,000	188,431,091	181,571,429	104.6%	150,601,049	32,942,286	183,543,334	4,887,756	(9,910,334)	421,843	75,000	184,040,177
Unallocated Contingency	14,030,000	18,073,000	4,390,913					9,910,334		8,162,666			7,665,823
10th to Highland Projected Costs			4,606,687	3,726,859	80.9%	3,901,000	160,581	4,061,581	545,107	(4,061,581)	570,470	50,000	4,682,050
Remaining Unallocated Contingency													2,983,773
Total	191,706,000	191,706,000	188,646,864	185,298,289	96.7%								191,706,000

IPMO/sbX Project Cost Report											
Period Ended 31-Oct-2016											
Description	Current Budget	Approved Current Budget	Authorized for Expenditure	Expenditures \$	%	Remaining Budget	Committed %	Estimate to Complete	Estimate at Completion	Budget Forecast Variance	
BRT Construction	\$ 84,637,000	\$ 84,637,000	\$ 87,876,664	\$ 81,434,583	96.2%	3,202,417	\$ 82,081,158 97.0%	\$ 206,388	\$ 82,287,545	\$ 2,349,455	
Vehicle Maintenance Facility (VMF) Construction	\$ 8,131,000	\$ 8,131,000	\$ 14,498,152	\$ 14,539,965	178.8%	(6,408,965)	\$ 14,535,135 178.8%	\$ 866,700	\$ 15,401,835	\$ (7,270,835)	
Vehicles - Design & Manufacturing	\$ 16,628,000	\$ 16,628,000	\$ 16,296,946	\$ 15,384,638	92.5%	1,243,362	\$ 15,384,638 92.5%	\$ -	\$ 15,384,638	\$ 1,243,362	
ROW Acquisition Services	\$ 10,357,000	\$ 10,357,000	\$ 11,738,400	\$ 11,418,850	110.3%	(1,061,850)	\$ 11,418,850 110.3%	\$ -	\$ 11,418,850	\$ (1,061,850)	
3rd Party Utilities Design & Relocation	\$ 1,003,000	\$ 1,003,000	\$ 1,157,223	\$ 1,106,705	110.3%	(103,705)	\$ 1,174,205 117.1%	\$ 50,000	\$ 1,224,205	\$ (221,205)	
BRT Design	\$ 17,849,400	\$ 17,849,400	\$ 18,097,876	\$ 19,205,395	107.6%	(1,355,995)	\$ 20,272,729 113.6%	\$ (1,326,245)	\$ 18,946,485	\$ (1,097,085)	
VMF Design	\$ 1,007,600	\$ 1,007,600	\$ 1,445,932	\$ 1,922,410	190.8%	(914,810)	\$ 2,019,556 200.4%	\$ -	\$ 2,019,556	\$ (1,011,956)	
Other Professional, Technical & Management Services	\$ 34,020,000	\$ 34,020,000	\$ 37,319,898	\$ 36,558,885	107.5%	(2,538,885)	\$ 36,657,064 107.8%	\$ 700,000	\$ 37,357,064	\$ (3,337,064)	
Allocated Contingency (Construction Contract)	\$ -	\$ -	\$ -			-	\$ - 0.0%	\$ -	\$ -	\$ -	
SUB-TOTAL	\$ 173,633,000	\$ 173,633,000	\$ 188,431,091	\$ 181,571,429	104.6%	(7,938,429)	\$ 183,543,334 105.7%	496,843	184,040,177	(10,407,177)	
Unallocated Contingency	\$ 18,073,000	\$ 18,073,000	\$ 4,390,913	\$ -		18,073,000	\$ - 0.0%	\$ -	\$ -	\$ 18,073,000	
10th to Highland	\$ -	\$ 4,682,050	\$ 4,606,687	\$ 3,726,859	79.6%	955,191	\$ 3,901,000 83.3%	\$ 955,191	\$ 4,682,050	\$ -	
TOTAL	\$ 191,706,000	\$ 191,706,000	\$ 188,646,864	\$ 185,298,289	96.7%	\$ 11,089,761	\$ 187,444,334 97.8%	\$ 1,452,033	\$ 188,722,227	\$ 7,665,823	

ITEM # _____ E5

DATE: January 4, 2017

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

THROUGH: P. Scott Graham, CEO/General Manager

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

**SUBJECT: APPROVE RE-EVALUATION OF OFFICE ADMINISTRATOR TO
OFFICE MANAGER**

FORM MOTION

Approve the re-evaluation of Office Administrator from Level V to Level IV (Position Description attached) with the new title of Office Manager for the Special Transit Services Department, effective January 4, 2017.

This item was reviewed by the Administrative and Finance Committee at its December 15, 2016, meeting, and recommended to the Board of Directors for approval.

BACKGROUND

The Office Administrator position in the Special Transit Services Department has been vacant since the transition of the Consolidated Transportation Service Agency to Omnitrans (May 2016). The current Position Description was approved by the Board of Directors in March 2016, at Classification Level V, salary range \$61,932 - \$86,610. Some of the essential responsibilities of the position include supervision of the Administrative Assistant, grant management, contract oversight, daily accounting and overall office administration, as well as provides direct support and assistance to the Director of Special Transit Services.

Since the transition, a thorough analysis of department staffing needs has been completed by the department director, and revealed that the existing position requirements are not sufficient to meet the needs of the department. Completion of the attached Position Information Questionnaire (PIQ) revealed that additional duties are required and a new title of Office Manager is warranted at Classification Level IV, salary range \$72,756 - \$98,736. The new position will have increased duties, higher education requirements, and increased supervisory responsibilities. It will also ensure that the proper oversight of the department is in place. Other essential duties will include:

- Interviewing and training employees

- Planning, assigning, and directing work
- Appraising performance for direct reports
- Disciplining employees
- Addressing complaints and resolving problems

FUNDING SOURCE

The total cost for Fiscal Year 2017 (6 months) is estimated to be \$57,875, including salary and benefits; however, since the Office Administrator position has been vacant since May, there is no increase required in the current fiscal year budget.

Department: 3000
Expenditure Code Various

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

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

CONCLUSION

If approved, the Office Manager will operate under the supervision of the department director and perform direct supervision of the Programs Administrator, Purchased Transportation Administrator and the Administrative Assistant.

PSG:ME

OMNITRANS Position Description

Job Title: Special Transportation Services (STS) Manager
Department: Special Transportation Services
Reports To: Director of Special Transportation Services
FLSA Status: Exempt - Level IV, Range \$72,756 - \$85,740 - \$98,736
Approved By: Board of Directors
Approved Date: Proposed January 4, 2017

SUMMARY

Under the direction of the Director of Special Transportation Services, is responsible for department contract oversight, daily accounting and overall department management. Provides direct support and assistance to the Director of Special Transportation Services.

ESSENTIAL DUTIES AND RESPONSIBILITIES

Supervises and evaluates the performance of the Programs Administrator, the Purchased Transportation Administrator, and the Administrative Assistant-STS.

Oversees the progress and performance of internal and external programs and provides administrative support as necessary.

Manages the organization's webpage, newsletter, and social media accounts.

Provides technical assistance and support to current and potential grant applicants.

Issues written and oral instructions and studies, and standardizes procedures to improve efficiency of subordinates.

SUPERVISORY RESPONSIBILITIES

Directly supervises Programs Administrator, Purchased Transportation Administrator, and the Administrative Assistant-STS. Carries out supervisory responsibilities in accordance with the organization's policies and applicable laws. Responsibilities include interviewing, hiring, and training employees; planning, assigning, and directing work; appraising performance; rewarding and disciplining employees; addressing complaints and resolving problems.

QUALIFICATIONS

To perform this job successfully, the candidate must be able to perform each essential duty satisfactorily. The requirements listed below are representative of the knowledge, skill, and/or ability required. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Job Title: Special Transportation Services Manager

Department: Special Transportation Services

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EDUCATION AND EXPERIENCE

A bachelor's degree in a related field from an accredited four-year college or university; plus five to seven years of related experience. Must have at least two years of supervisory experience. Experience in Paratransit, human services, and/or transportation coordination desired.

LANGUAGE SKILLS

Ability to read, analyze, and interpret common scientific and technical journals, financial reports, and legal documents. Ability to respond to common inquiries or complaints from customers, regulatory agencies, or members of the business community. Ability to write speeches and articles for publication that conform to prescribed style and format. Ability to effectively present information to top management, public groups, and/or boards of directors.

MATHEMATICAL SKILLS

Ability to work with mathematical concepts such as probability and statistical inference, and fundamentals of plane geometry and trigonometry. Ability to apply concepts such as fractions, percentages, ratios, and proportions to practical situations.

COMPUTER SKILLS

Must be familiar with current business operating systems, software, and programs (i.e. MS Office).

REASONING ABILITY

Ability to define problems, collect data, establish facts, and draw valid conclusions. Ability to interpret an extensive variety of technical instructions in mathematical or diagram form and deal with several abstract and concrete variables.

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is occasionally required to stand, walk, climb or balance, stoop, kneel, crouch or crawl, and reach with hands and arms, and use hands to finger, handle or feel. The employee is regularly required to sit, and is frequently required to talk or hear. The employee must regularly lift and/or move up to 10 pounds. Specific vision abilities required by this job include close vision, ability to adjust focus, and depth perception.

Job Title: Special Transportation Services Manager

Department: Special Transportation Services

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WORK ENVIRONMENT

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

The noise level in the work environment is usually moderate.

OMNITRANS

POSITION INFORMATION QUESTIONNAIRE

EMPLOYEE NAME: _____ DATE: _____

POSITION TITLE: Office Manager

OTHER TITLES COMMONLY USED (If no other titles are used, indicate by writing "N/A" in the space below)

PURPOSE

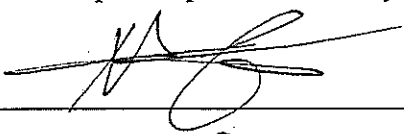
This questionnaire is designed to gather relevant information about the nature of each job performed in the Company. It is not an evaluation of you or your performance. It gives you the opportunity to explain the significant features of your job by responding to a series of questions. The information you provide will be used to develop a position description and to establish an appropriate and competitive pay range for your job.

We are asking you for this information because you are in the best position to know exactly what you do, how you do it, and what you need to know to perform the work properly.

INSTRUCTIONS

Please read through the entire questionnaire to understand its scope before answering any of the questions. Then, complete each section; please be specific and precise, describing the position as it currently exists according to your duties and responsibilities. Since this questionnaire is used for all types of jobs, some questions will not apply to your position and the work you do. Please read and answer all questions, marking those that do not apply with "N/A" (not applicable). If you need additional space to answer any of the questions, please continue your answers on the back of the appropriate page.

When you have completed the questionnaire, please sign your name in the space provided below. Please forward the completed questionnaire to your supervisor for review.

Completed by  Date 11/6/16

Reviewed by Majani Ewing Date 12/4/16

SECTION 1: -- WORK HISTORY

Please answer each of the following questions.

1. WHAT IS THE NAME OF THE DEPARTMENT IN WHICH YOU WORK?

Special Transit Services

2. WHAT IS THE LENGTH OF TIME YOU HAVE BEEN WITH THE ORGANIZATION?

YEARS: _____ MONTHS: _____

3. WHAT IS THE LENGTH OF TIME YOU HAVE BEEN IN YOUR PRESENT POSITION?

YEARS: _____ MONTHS: _____

4. WHAT TWO PREVIOUS POSITIONS HAVE YOU HELD WITHIN THE ORGANIZATION, IF ANY, AND WHAT WAS THE LENGTH OF TIME YOU HELD EACH (please list the last/most recent position first)?

TITLE: _____ YEARS: _____

TITLE: _____ YEARS: _____

5. WHAT IS YOUR SUPERVISOR'S NAME: _____

6. WHAT IS YOUR SUPERVISOR'S TITLE: _____

SECTION 2: -- JOB PURPOSE, DUTIES AND RESPONSIBILITIES

1. STATE BRIEFLY (in one or two sentences) THE PRIMARY PURPOSE OF YOUR JOB AS IT HAS BEEN DESCRIBED TO YOU, OR AS YOU UNDERSTAND IT.

Under the supervision of the Director of STS, perform direct supervision of the Programs Administrator, Purchase Transportation Administrator and the Administrative Assistant.

Carries out supervisory responsibilities in accordance with the organization's policies and applicable laws. Responsible for interviewing and training employees,

planning, assigning, and directing work; appraising performance for direct reports; disciplining employees; addressing complaints and resolving problems.

2. ON THE NEXT PAGE STATE BRIEFLY, CLEARLY, AND CONCISELY THE THINGS THAT YOU DO ON YOUR JOB. BEGIN WITH THOSE REGULAR DUTIES THAT NORMALLY TAKE MOST OF YOUR TIME AND/OR THAT YOU CONSIDER TO BE MOST IMPORTANT. IN THE COLUMN ON THE RIGHT, INDICATE THE APPROXIMATE PERCENT OF YOUR TOTAL WEEKLY TIME SPENT PERFORMING EACH DUTY.

Use simple, non-technical words to describe your work. You should find it helpful to begin each statement of your duties with a verb descriptive of the kind of action you are required to take. Some of the verbs commonly used are listed below:

administer	arrange	check
advise	allocate	assemble
operate	originate	post
review	transfer	distribute
analyze	audit	coordinate
approve	calculate	control
compile	formulate	promote
compute	initiate	purchase
counsel	payout	recommend
design	maintain	regulate
develop	make	schedule
direct	meet	set up
establish	negotiate	specify
examine	organize	supervise
expedite	plan	type
file	prepare	verify
write	tabulate	monitor

Select the proper verb carefully. Be sure that the words you use mean exactly what you intend them to mean - for example: "type a report," "write a report," "add figures," "negotiate contracts," "approve contracts," "meet with vendors," etc.

SECTION 2: - JOB PURPOSE, DUTIES AND RESPONSIBILITIES (continued)

	Responsibilities	Percent of Time Per Week
a.	Supervise and Evaluate the performance of the Programs Administrator	25%
b.	Supervise and Evaluate the performance of the Purchase Transportation Administrator	25%
c.	Supervise and Evaluate the performance of the Administrative Assistant	20%
d.	Manages the departments web page, newsletter and social media accounts	5%
e.	Provides technical assistance and support to current and potential community partners	5%
f.	Issues written and oral instruction. Studies and recommends standards in departmental procedures to improve efficiency.	5%
g.	Overseas the progress and performance of internal and external programs and provides administrative support as necessary	15%
h.		
i.		
j.	Other (not to exceed 15% of your time)	

FULL TIME TOTAL PERCENT 100%

SECTION 2: -- JOB PURPOSE, DUTIES AND RESPONSIBILITIES (continued)

3. BRIEFLY GIVE TWO (2) EXAMPLES OF THE MOST DIFFICULT TYPES OF PROBLEMS YOU FACE IN YOUR WORK:

4. LIST THE ASPECTS OF YOUR JOB, IF ANY, THAT ARE CONSIDERED CONFIDENTIAL OR SENSITIVE IN NATURE:

Employee Evaluations, Clients Medical Information, Disciplinary Documents

SECTION 3: - EDUCATION AND EXPERIENCE

1. WHAT IS THE MINIMUM LEVEL OF EDUCATION REQUIRED BY SOMEONE TO PERFORM YOUR JOB SATISFACTORILY. PLEASE CHECK ONLY ONE ITEM.

_____ No formal education is necessary

_____ High school diploma

_____ Training beyond high school in a special trade or field

_____ A two-year college degree (AA or AS) in _____

☒ Professional level of knowledge in a field (usually equivalent to a four-year college degree) in: Bachelors Degree

_____ Post-graduate training or an advanced degree field: _____ degree

2. PLEASE LIST ANY SPECIALIZED SKILLS, TRAINING, COURSE WORK, SEMINARS OR CERTIFICATE PROGRAMS REQUIRED TO PERFORM THIS JOB:

Experience in Paratransit and human services transportation desired.

SECTION 3: - EDUCATION AND EXPERIENCE (continued)

3. WHAT TYPES OF EQUIPMENT, MACHINERY, OR TOOLS, IF ANY, MUST YOU USE IN THE PERFORMANCE OF YOUR JOB DUTIES?

4. EXPERIENCE REQUIREMENTS:

- A. PLEASE LIST THE MINIMUM TYPES AND LENGTH OF WORK EXPERIENCE REQUIRED BEFORE A PERSON CAN PERFORM YOUR JOB:

Type of Experience	Length of Time
Supervisory	2-3 years
Field Related Experience	5 years
Total Work Experience:	
	4-5 years

- B. WHAT IS THE LENGTH OF THE TRAINING PERIOD REQUIRED FOR A NEW EMPLOYEE ON YOUR JOB TO BECOME FULLY FUNCTIONAL IF HE/SHE POSSESSES THE QUALIFICATIONS YOU HAVE LISTED ABOVE?

6 months

- C. IF RECRUITING FOR THIS POSITION, IN WHAT INDUSTRIES WOULD YOU LOOK?

Transportation, Military, Public, Private

- D. IF RECRUITING FOR THIS POSITION, WHAT MIGHT BE THE CANDIDATE'S CURRENT JOB TITLE?

Manager, Assistant Manager

SECTION 4: - SUPERVISORY RESPONSIBILITIES

1. THE FOLLOWING THREE STATEMENTS DESCRIBE LEVELS OF SUPERVISORY RESPONSIBILITY. CHECK THE ONE THAT BEST DESCRIBES YOUR JOB.

- ☐ I do not manage the work of others.
- ☐ I provide work direction to others, but do not have direct performance appraisal responsibility for them.
- ☒ I have full supervisory responsibility for others, including performance appraisal and delegated authority to hire, fire, and approve salary actions.

I have this responsibility for:

- ☐ non-management employees only,
- ☐ management or professional employees only, or
- ☐ both non-management and management employees.

2. IF YOU DIRECTLY SUPERVISE OTHER EMPLOYEES, INDICATE THE TITLE(S) OF THE POSITION(S) SUPERVISED AND, FOLLOWING THE TITLE, THE NUMBER OF EMPLOYEES ASSIGNED TO THE POSITION(S). IF YOU DO NOT SUPERVISE ANYONE DIRECTLY, PLEASE MARK "N/A".

TITLES(S)	NUMBER OF PEOPLE
Programs Administrator	1
Purchase Transportation Administrator	1
Administrative Assistant	1

3. IF YOU INDIRECTLY SUPERVISE OTHERS (that is, if you have people report to you through someone else who then reports to you directly), INDICATE THE TITLE(S) OF THE POSITION(S) INDIRECTLY SUPERVISED AND, FOLLOWING THE TITLE(S), THE NUMBER OF EMPLOYEES ASSIGNED TO EACH POSITION.

TITLE (S)	NUMBER OF PEOPLE
Travel Trainer	4
Client Relations Coordinator	1
Eligibility Tech	2

SECTION 5: - ORGANIZATIONAL CONTACTS

1. LIST THE TITLES OF PEOPLE WITHIN THE COMPANY THAT YOU MUST WORK WITH TO DO YOUR JOB. IN ADDITION, PLEASE LIST THE REASON FOR THESE CONTACTS AND THE FREQUENCY OF THESE CONTACTS (FOR EXAMPLE, YOU MAY SPEAK WITH A PAYROLL CLERK ONCE PER WEEK TO RELAY INFORMATION ABOUT NEW HIRES).

Title	Reason for Contact	How Often?
Director STS	Direct Supervisor	daily
Treasure Manager	Partner Invoicing	weekly

2. LIST THE TITLES OF PEOPLE OUTSIDE THE COMPANY THAT YOU MUST WORK WITH TO DO YOUR JOB (e.g., vendors, bankers, service companies, etc.). ALSO LIST THE NAME OF THE ORGANIZATION THEY WORK FOR, THE REASON YOU HAVE CONTACT WITH THEM, AND THE FREQUENCY WITH WHICH YOU INTERACT WITH THEM.

Title	Organization	Reason for Contact	How Often?
Director	211	Community Partner	Monthly
CEO	CSS	Community Partner	Monthly
Vice President	CSS	Community Partner	Monthly
Executive Director	HSC	Community Partner	Monthly
Executive Director	OPARC	Community Partner	Monthly
Executive Director	PVW	Community Partner	Monthly

SECTION 5: - ORGANIZATIONAL CONTACTS (continued)

THIS ITEM ALSO PERTAINS TO THE INTERPERSONAL CONTACTS WHICH YOU MUST MAINTAIN WITH OTHER EMPLOYEES, VENDORS, EXECUTIVES OF THE COMPANY AND/OR OUTSIDE INDIVIDUALS OF VARIOUS TYPES IN YOUR NORMAL DAILY WORK. CHECK THE STATEMENT THAT MOST ACCURATELY REFLECTS THE TYPE OF CONTACTS YOU NORMALLY HAVE.

_____ The personal contacts I have during a normal workday are with my immediate associates in my section and generally deal with matters of a routine nature. My contacts require ordinary courtesy to avoid friction in relationships.

_____ The personal contacts I have are generally of a routine nature in one or several other sections, departments, or divisions, or they require close collaboration with other members of the same-section, department, or division.

_____ The personal contacts I have involve telephone or written communication with individuals primarily inside, but occasionally outside, the Company and may involve answering routine inquiries or discussion of non-controversial matters.

_____ The personal contacts I have involve frequent telephone or written communication with individuals outside the Company in administrative positions and may involve answering routine inquiries or discussion of non-controversial matters.

X

_____ The personal contacts I have involve frequent personal contact with individuals in management or executive positions, wherein I present information and recommendations. I (may) also answer outsiders' requests for nonroutine information requiring tact in presentation.

_____ My personal contacts are of considerable importance inside and outside the Company wherein failure to exercise judgment or diplomacy may result in losses to the Company.

_____ I have regular contact with the Board of Directors of the Company.

SECTION 6: - PLANNING

EACH OF THE FOLLOWING STATEMENTS DESCRIBES ONE OPTION IN A RANGE OF OPTIONS CONCERNING THE SCOPE OF THE PLANNING ACTIVITIES THAT A PERSON DOES AS PART OF HIS/HER JOB. PLEASE CHECK THE ONE STATEMENT THAT BEST DESCRIBES YOUR PLANNING RESPONSIBILITIES.

_____ I do not do any planning.

_____ I plan my own work load.

 X I plan my own work load and the work of one or more people in my work group.

_____ I plan the work for the entire department.

_____ I plan the work for two or more departments.

_____ I plan the work for the entire region.

_____ I plan the work for the entire organization.

SECTION 6: - PLANNING (CONTINUED)

If you do some form of planning, please identify the timespan of your planning activities.

_____ I only plan my work on a day to day basis.

_____ I plan on a weekly basis.

_____ I plan on a monthly basis.

 X I plan projects with a month to six month timespan.

_____ I plan projects with a six month to one year timespan.

_____ I plan for annual budgets and up to 2 years in advance.

_____ I am involved in strategic planning for the organization and plan on a 3 to 5 year basis.

SECTION 7: -SKILLS AND ABILITIES

Please check the statement that most closely matches the skills and abilities required for the position.

LANGUAGE SKILLS

- _____ Ability to read a limited number of two- and three-syllable words and to recognize similarities and differences between words and between series of numbers. Ability to print and speak simple sentences.
- _____ Ability to read and comprehend simple instructions, short correspondence, and memos. Ability to write simple correspondence. Ability to effectively present information in one-on-one and small group situations to customers, clients, and other employees of the organization.
- _____ Ability to read and interpret documents such as safety rules, operating and maintenance instructions, and procedure manuals. Ability to write routine reports and correspondence. Ability to speak effectively before groups of customers or employees of the organization.
- X _____ Ability to read, analyze, and interpret general business periodicals, professional journals, technical procedures, or governmental regulations. Ability to write reports, business correspondence, and procedure manuals. Ability to effectively present information and respond to questions from groups of managers, clients, customers, and the general public.
- _____ Ability to read, analyze, and interpret common scientific and technical journals, financial reports, and legal documents. Ability to respond to common inquiries or complaints from customers, regulatory agencies, or members of the business community. Ability to write speeches and articles for publication that conform to prescribed style and format. Ability to effectively present information to top management, public groups, and/or boards of directors.
- _____ Ability to read, analyze, and interpret the most complex documents. Ability to respond effectively to the most sensitive inquiries or complaints. Ability to write speeches and articles using original or innovative techniques or style. Ability to make effective and persuasive speeches and presentations on controversial or complex topics to top management, public groups, and/or boards of directors.

SECTION 7: --SKILIS AND ABILITIES (continued)

MATHEMATICAL ABILITY

- _____ Ability to add and subtract two digit numbers and to multiply and divide with 10's and 100's. Ability to perform these operations using units of American money and weight measurement, volume, and distance.
- _____ Ability to add, subtract, multiply, and divide in all units of measure, using whole numbers, common fractions, and decimals. Ability to compute rate, ratio, and percent and to draw and interpret bar graphs.
- X
_____ Ability to calculate figures and amounts such as discounts, interest, commissions, proportions, percentages, area, circumference, and volume. Ability to apply concepts of basic algebra and geometry.
- _____ Ability to work with mathematical concepts such as probability and statistical inference, and fundamentals of plane and solid geometry and trigonometry. Ability to apply concepts such as fractions, percentages, ratios, and proportions to practical situations.

REASONING ABILITY

- _____ Ability to apply common sense understanding to carry out simple one- or two-step instructions. Ability to deal with standardized situations with only occasional or no variables.
- _____ Ability to apply common sense understanding to carry out detailed but uninvolved written or oral instructions. Ability to deal with problems involving a few concrete variables in standardized situations.
- X
_____ Ability to apply common sense understanding to carry out instructions furnished in written, oral, or diagram form. Ability to deal with problems involving several concrete variables in standardized situations.
- _____ Ability to solve practical problems and deal with a variety of concrete variables in situations where only limited standardization exists. Ability to interpret a variety of instructions furnished in written, oral, diagram, or schedule form.
- _____ Ability to define problems, collect data, establish facts, and draw valid conclusions. Ability to interpret an extensive variety of technical instructions in mathematical or diagram form and deal with several abstract and concrete variables.

SECTION 8: - ACCOUNTABILITY

EACH OF THE FOLLOWING STATEMENTS DESCRIBES ONE OPTION IN A RANGE OF POSSIBILITIES CONCERNING THE TYPE OF SUPERVISION AND GUIDANCE A PERSON RECEIVES AS PART OF HIS/HER JOB. PLEASE CHECK THE ONE STATEMENT THAT BEST DESCRIBES THE KIND OF SUPERVISION YOU RECEIVE.

- _____ I am constantly supervised; I make no decisions independently and work according to procedure.
- _____ I am closely supervised; I have very little flexibility in the methods I use or in assigning priorities to my tasks.
- _____ I am frequently supervised; My activities are governed by well established rules and procedures and are periodically monitored; some flexibility to determine method or scheduling.
- X** _____ I am generally managed; My activities are governed by general department and of company rules and procedures or schedules and are sometimes monitored; moderate flexibility to determine method, high flexibility to determine scheduling.
- _____ I have occasional oversight; My activities are governed by general organizational roles and procedures, I have considerable autonomy within established timeframes.
- _____ I work independently on a major function, guided by company policies. I exercise a high degree of initiative involving major programs and commitment. My work is monitored by exception and management information reports. I am almost autonomous in my work.
- _____ My work is entirely self-directed; I answer only to the Board of Directors.

SECTION 9: - DECISION-MAKING, COMPLEXITY AND PROBLEM-SOLVING

1. EACH OF THE FOLLOWING STATEMENTS DESCRIBES ONE POSITION IN A RANGE OF POSITIONS CONCERNING THE VARIETY OF WORK DONE WITHIN A JOB. PLEASE PUT A CHECK MARK IN FRONT OF THE ONE STATEMENT THAT MOST CLOSELY DESCRIBES THE VARIETY OF TASKS THAT ARE NORMALLY A PART OF YOUR JOB.

_____ I perform routine and generally repetitive duties involving little or no variety. I follow simple and easily understood procedures that do not require independent judgment and analysis.

_____ I work on a limited variety of routine tasks which are relatively simple tasks of a clerical or manual nature; I may make minor decisions involving accuracy, quality, method of operation or set-ups.

_____ I work on a wide variety of routine tasks that involve some choice of action within limits.

 X I work on diversified tasks that involve a wide range of complex but standardized procedures, semi-routine duties may involve solving frequent problems. I work according to assigned objectives and may work independently on special projects.

_____ I work on non-routine tasks within general procedures or guidelines, and that involve the analysis and solution of complex problems based on facts, within broad policies and objective guidelines.

_____ I do specialized or technical work with unclear guidelines. My work is analytical and involved, and requires judgment where policies and methods are not well established, problem solving requires innovation, ingenuity, planning, and coordination of effort.

_____ I do creative work of a research or development nature with few precedents or examples.

SECTION 9:- DECISION-MAKING, COMPLEXITY, AND PROBLEM-SOLVING
(Continued)

2. EACH OF THE FOLLOWING STATEMENTS CONCERNS THE VARIETY OF DECISION-MAKING LATITUDE A PERSON CAN HAVE IN A JOB. PLEASE PUT A CHECK MARK IN FRONT OF THE ONE STATEMENT THAT MOST CLOSELY DESCRIBES THE DECISION-MAKING LATITUDE THAT IS NORMALLY A PART OF YOUR JOB.

_____ Position duties involve little or no decision making activities.

_____ Position duties involve providing counsel and information used in the decision making process, but do not involve making decisions or recommendations.

_____ Position duties involve providing counsel and information, and also involve making some recommendations.

☒ _____ Position duties involve making some decisions and making many recommendations.

_____ Position duties involve making frequent decisions and frequent recommendations. I make decisions and take actions that are later subject to review.

_____ Position duties involve making constant decisions and providing the authorization of recommended courses of action.

_____ Position duties involve decision making having international impact on the Company. I make decisions and take actions independently without anyone's review.

SECTION 10: - IMPACT OF ERRORS

CHECK THE ONE STATEMENT THAT MOST ACCURATELY DESCRIBES THE POTENTIAL CONSEQUENCES OF THE ERRORS THAT MAY OCCUR IN THE COURSE OF YOUR NORMAL WORK.

_____ My errors cause little difficulty or loss of time to correct. Most of my errors are detected through routine checking procedures.

_____ My errors do not result in overall embarrassment to the Company or in monetary losses but (may) waste supplies and require expenditure of time to track and correct.

 X _____ My errors may cause the Company to incur a modest financial loss or may cause modest embarrassment.

_____ My errors may result in considerable financial loss and/or embarrassment to the Company and may adversely affect some aspect of our business.

_____ My errors have serious financial impact and/or may seriously impair achievement of Company goals and commitments.

SECTION 11: - WORKING CONDITIONS

How much exposure to the following environmental conditions does this job require? Show the amount of time by checking the appropriate boxes below.

	Amount of time			
	None	Up to 1/3	1/3 to 2/3	2/3 and more
Wet, humid conditions (non -weather)	x			
Work near moving mechanical parts	x			
Work in high, precarious place	x			
Fumes or airborne particles	x			
Toxic or caustic chemicals	x			
Outdoor weather conditions	x			
Extreme cold (non weather)	x			
Extreme heat (non weather)	x			
Risk of electrical shock	x			
Work with explosive	x			
Risk of radiation	x			
Vibration	x			

How much noise is typical for the work environment of this job? Check the appropriate level below.

- _____ Very Quiet (Examples: forest trail, isolation booth for hearing test)
- _____ Quiet (Examples: library, private office)
- X** _____ Moderate Noise (Examples: business office with typewriters and/or computer printers, light traffic)
- _____ Loud Noise (Examples: metal can manufacturing, department, large earth-moving equipment)
- _____ Very Loud Noise (Examples: jack hammer work, front row at rock concert)

SECTION 12: - PROBABILITY OF INJURY OR ACCIDENT

Which of the following statements most closely describes the probability of injury or accident in your working environment? Please cite one or two examples if appropriate.

X

While performing my normal work activities, there is generally little or no probability of injury or health impairment.

_____ While performing my normal work activities, accidents are improbable outside of temporary minor injuries such as cuts, bruises or sprains.

_____ While performing my normal work activities, I have relatively high exposure to hazards which are likely to produce temporary cuts, bruises or sprains.

_____ While performing my normal work activities, I have occasional exposure to serious potential injury or health hazard such as severe burns, fractures or similar disablements.

_____ While performing my normal work activities, I am frequently exposed to serious potential injury or health hazard such as severe burns, fractures or similar disablements.

Examples

SECTION 13: - PHYSICAL DEMAND

Please check the box that most accurately describes the amount of time you spend on the following activities.

	Amount of time			
	None	Up to 1/3	1/3 to 2/3	2/3 and more
Stand		X		
Walks		x		
Sit		x		
Talk or hear		x		
Use hands to finger, handle or feel		x		
Climb or balance				
Stoop, kneel, crouch or crawl		x		
Reach with hands and arms		x		
Taste or smell				

Does this job require that weight be lifted or force be exerted? If so, how much and how often?
Check the appropriate boxes below.

	Amount of time			
	None	Up to 1/3	1/3 to 2/3	2/3 and more
Up to 10 pounds		x		
Up to 25 pounds	x			
Up to 50 pounds	x			
Up to 100 pounds	x			
More than 100 pounds	x			

EXAMPLES

SECTION 14: - VISION REQUIREMENTS

Does this job have any special vision requirements. Check all that apply.

X

My job requires close vision (clear vision at 20 inches or less).

My job requires distance vision (clear vision at 20 feet or more).

My job requires color vision (ability to identify and distinguish colors).

My job requires peripheral vision (ability to observe an area that can seem up or down or to the left and right while eyes are fixed on a given point).

X

My job requires depth perception (3- dimensional vision, ability to judge distances and spatial relationships).

X

My job requires ability to adjust focus (ability to adjust the eye to bring an object into sharp focus).

My job requires no special vision requirements.

ITEM # _____ E6

DATE: January 4, 2017

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

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Jennifer M. Sims, Director of Procurement

SUBJECT: AUTHORIZE RELEASE – RFP-HRS17-56, LEADERSHIP PROGRAMS

FORM MOTION

Authorize the CEO/General Manager to release Request for Proposals RFP-HRS17-56 for Consulting Services to provide Leadership Programs for two (2) base years and three (3) single option years.

BACKGROUND

Omnitrans seeks proposals from experienced and qualified consultants to develop and provide agency Leadership Programs. These Leadership Programs may include 360° Evaluations, Dominance, Influence, Support and Compliance (DISC) profile assessments and workshops, and individualized leadership training. Omnitrans has maintained a Leadership Action Program for six (6) years and requests to expand the program to include individualized leadership training. Omnitrans is committed to enhancing leadership development for all Omnitrans employees.

In accordance with the Procurement Policy 2000, Section 2.3.5.1.3 and FTA Circular 4220.1F, Board authorization and use of a formal procurement procedure is required to release Request for Proposals for procurements for good/services exceeding \$100,000. The Independent Cost Estimate for this project is \$331,755, if all options are exercised.

FUNDING SOURCE

The cost associated with this procurement is budgeted in the Human Resources/Safety Regulatory Department's Operating Budget as follows:

Department	1600
Expenditure Code	503060

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

Short Range Transit Plan/Strategic Initiative Supported – This procurement supports Strategic Initiative 6 – Workforce Development.

CONCLUSION

By proceeding with this solicitation, Omnitrans will expand its training programs and prepare qualified internal candidates to be competitive for advancement.

PSG:JMS:KT

ITEM # E7

DATE: January 4, 2017

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

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Jennifer M. Sims, Director of Procurement

**SUBJECT: AUTHORIZE RELEASE - IFB-ITS17-46
DATACENTER AND HARDWARE REFRESH**

FORM MOTION

Authorize the CEO/General Manager to release Invitation for Bids IFB-ITS17-46 for the provision of Datacenter and Hardware Refresh.

BACKGROUND

Omnitrans utilizes host servers and backup storage devices to allow for multiple operating systems and applications to run on a single server. This solicitation will replace five host servers and one backup storage device, and allow for the purchase of new VMWare vSAN licensing. The physical host servers will run VMware to cluster the hosting of critical applications such as SAP, Trapeze and TransitMaster. The VMware vSAN (virtual storage area network) licensing will replace a physical SAN. The virtualization of physical servers improves the efficiency through the reduction of maintenance and is 100 times faster than the current SAN. The current host servers will be utilized for Omnitrans' disaster recovery program.

In accordance with the Procurement Policy 2000, Section 2.3.5.1.3 and FTA Circular 4220.1F, Board authorization and use of a formal procurement procedure is required to release Invitation for Bids for procurements exceeding \$100,000. The Independent Cost Estimate for this project is \$500,000.

FUNDING SOURCES

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

FUNDING	GRANT #	YEAR	PROJECT NAME	INTERNAL ORDER	AMOUNT
FTA	CA-90-Y850	2011	Data Server Refresh	D1122003F	\$ 41,178.67
FTA	CA-90-Y939	2012	Data Server Refresh	D1222006F	\$ 84,021.74

FUNDING	GRANT #	YEAR	PROJECT NAME	INTERNAL ORDER	AMOUNT
FTA	CA-90-Z112	2014	Data Server Refresh	D1422030F	\$ 274,806.82
STAF	11-03-OMN-B	2011	Data Server Refresh	D1122003S	\$ 4,901.99
STAF	09-10-OMN-B	2009	Data Server Refresh	D0622006S	\$ 2,792.34
STAF	09-09-OMN-B	2009	Data Server Refresh	D0922004S	\$ 48,831.02
Prop 1B	Prop 1B	2013	Data Server Refresh	D1322022B	\$ 43,467.43
					\$ 500,000.00

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

Short Range Transit Plan/Strategic Initiative Supported – Strategic Initiative 5, Technology Optimization

CONCLUSION

By proceeding with this solicitation, Omnitrans will have the ability to increase the speed and reliability of its critical applications.

PSG:JMS:CVM

ITEM # _____ E8 _____

DATE: January 4, 2017

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

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Jennifer M. Sims, Director of Procurement

**SUBJECT: AUTHORIZE RELEASE - IFB-ITS17-60
NETWORK MONITORING AND TICKETING SOFTWARE LICENSING**

FORM MOTION

Authorize the CEO/General Manager to release Invitation for Bids IFB-ITS17-60 for the provision of Network Monitoring and Ticketing Software Licensing for a three (3) year base period and two (2) single option years.

BACKGROUND

Omnitrans utilizes network monitoring software to track its network devices. The monitoring software sends notifications to alert staff of devices not performing properly. This solicitation seeks vendors with the capability to renew current licensing for the network monitoring and the help desk ticketing software, and adds licenses to monitor devices, additional servers, sockets, IP addresses, and databases.

On January 14, 2015, Omnitrans' Board of Directors authorized award to Syntech Group, Inc. of Rancho Cucamonga, CA for the provision of IT Management Software. Option Year One expires December 31, 2016. In order to add licensing for the additional monitoring systems, a new solicitation is required.

In accordance with the Procurement Policy 2000, Section 2.3.5.1.3 and FTA Circular 4220.1F, Board authorization and use of a formal procurement procedure is required to release Invitation for Bids for procurements exceeding \$100,000. The Independent Cost Estimate for this project is \$300,735.

FUNDING SOURCES

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)

Short Range Transit Plan/Strategic Initiative Supported – Strategic Initiative 5, Technology Optimization

CONCLUSION

By proceeding with this solicitation, Omnitrans will have the ability to continue to monitor its networking systems and avoid system failures.

PSG:JMS:CVM

RESOLUTION NO. 295-17

**A RESOLUTION OF THE OMNITRANS BOARD OF DIRECTORS, SAN
BERNARDINO COUNTY, CALIFORNIA, AUTHORIZING THE DESTRUCTION OF
OMNITRANS RECORDS LISTED ON APPENDIX "A."**

WHEREAS, California Government Code Section 34090 provides for the destruction of records that are no longer required, with the approval of the legislative body by resolution and the written consent of the Agency's Attorney; and

WHEREAS, the records listed on Appendix "A" have been determined to no longer be required by Omnitrans.

NOW THEREFORE BE IT RESOLVED that the Director of Information Technology is hereby authorized to destroy the records listed on Appendix "A".

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Omnitrans Board of Directors, at their regular meeting held on the 4th day of January 2017, by the following vote to wit:

AYES:

NOES:

ABSENT:

P. Scott Graham, CEO/General Manager
Secretary, Omnitrans Board of Directors

Sam Spagnolo, Chair
Omnitrans Board of Directors

Approved as to form:

Erica Vega
Legal Counsel for Omnitrans

APPENDIX "A"
LIST OF OMNITRANS RECORDS TO BE DESTROYED
JANUARY 4, 2017

FILE NAME

YEARS TO DESTROY

ALL DEPARTMENTS

Correspondence Files	FY 2013 & prior
Departmental Copies of Budgets	FY 2012 & prior
Departmental Copies of Accounts Payable Records	FY 2012 & prior
Departmental Copies of Accounts Receivable Records	FY 2011 & prior
Employee Grievance Files - Closed	FY 2007 & prior
Desk Calendars & Diaries	CY 2015 & prior
Telephone Message Books or Slips	CY 2014 & prior
Department Monthly Reports	FY 2014 & prior

EXECUTIVE OFFICE

Statement of Economic Interests	CY 2008 and CY 2009
Loss Runs	FY 2012-2013
Ethics Training Certs	April 2010 & prior
Management Plans	FY1999 - FY2011
Audio Tapes - Board and Committee Meetings	CY 2011 - CY 2015

FINANCE

Accounts Payable Records (With Grant closed and audited for three or more years)	FY 2010 & prior
Accounts Receivable Records	FY 2010 & prior
Annual Budgets	FY 2006 & prior
Balance Sheets	FY 2011 & prior
Banking Records	FY 2011 & prior
Capital Property Records (Inventory)	FY 2009 & prior
External Audits	FY 2006 & prior
Financial Reports and Statements	FY 2006 & prior
FTA and STA Annual Reports	FY 2010 & prior
General Accounting Procedures	FY 2005 & prior
General Accounting Records	FY 2009 & prior
Investments & Insurance Policies (if no open claims)	FY 2009 & prior
Payroll Records	FY 2009 & prior
Profit & Loss Statements	FY 2006 & prior
Tax Returns & Reports	FY 2010 & prior

MARKETING

Customer Contact Forms	FY 2013 & prior
Daily Sales Report	FY 2013 & prior
Employee Rideshare Record Forms	FY 2009 & prior
Promotional Contests/Drawings	FY 2013 & prior
Rideshare Affected Sites Files	FY 2011 & prior

OPERATIONS

Dispatch Logs	FY 2013 & prior
Service Interruption Reports	FY 2013 & prior
Daily Overtime Logs	FY 2013 & prior
Alternative Transportation Logs	FY 2013 & prior
Field Supervisor Logs	FY 2013 & prior
Schedule Adherence	FY 2013 & prior
Sign-on Sheets	FY 2013 & prior

APPENDIX "A"
LIST OF OMNITRANS RECORDS TO BE DESTROYED
JANUARY 4, 2017

Nutrition Trip Sheets	FY 2014	& prior
Contract Services Accident Reports (Resolved for over five years)	FY 2015	& prior
Customer Contact Forms	FY 2016	& prior
Waybills	FY 2016	& prior

HUMAN RESOURCES

Applications for Employment & Related Documents	CY 2014	& prior
Claims - (Resolved for more than five years)	Closed prior to 1/31/12	
Employee Accident/Incident Reports & Related Documents (Resolved for over five years)	CY 2009	& prior
Employees Personnel Files (Terminated)	CY 2006	& prior
Service Awards Annual Records	CY 2010	& prior

Safety/Health & Regulatory Compliance

Employee Health Related Records	CY 1986	& prior
Environmental Related Records (EPA)	CY 1986	& prior
Regulatory Compliance Inspection Reports (with no activity since CY 2003)	CY 2007	& prior
Internal Inspection Reports	CY 2011	& prior
Safety and Health Training Records	CY 2013	& prior

PLANNING

Access Fare Structure, Zone Maps, Requests and General Issues	CY 2007	& prior
Annual Service Plan	CY 1996	& prior
Comments on Proposed Regulations	CY 2012	& prior
Comprehensive Operational Analysis Reports	CY 1996	& prior
Cooperative Service Agreements	CY 2006	& prior
Fixed Route Summary Reports	CY 2012	& prior
Fixed Route Surveys - All Routes	CY 2012	& prior
Omnitrans ADA Plan & Workpapers	CY 2007	& prior
On-Board Survey Forms	CY 2014	& prior
Short Range Transit Plan	CY 1996	& prior
Title VI Updates	CY 2009	& prior

CY = Calendar Year FY = Fiscal Year

Note: (All documents connected to an ongoing or active investigation, audit, or legal action are excluded)

MAINTENANCE

Operators' Daily Reports	CY 2013	& prior
Supervisors' Reports/Tailgate Forms	CY 2013	& prior
Maintenance Records of Disposed Vehicles	CY 2013	& prior
Work Orders	CY 2013	& prior
A/P Receipts & Statements	CY 2013	& prior
Nextel Bills	CY 2013	& prior
Tire Mileage	CY 2013	& prior
CII List	CY 2013	& prior
Estimate Of Repair	CY 2013	& prior
Period Report Back-Up	CY 2013	& prior
AQMD Inspection Forms	CY 2013	& prior
CNG Daily Inspections	CY 2013	& prior
LCNG Fueling Station Inspection	CY 2013	& prior
Retrofit/Rebuild	CY 2013	& prior

Highland Community News

Friday, September 30, 2016

Item # E10

Highland Community News

09/30/16

Public – Private Partnerships Bring Style to Redlands Passenger Rail Stations

Esri and University of Redlands, two of San Bernardino County's prominent private organizations, have supported the development of the Redlands Passenger Rail Project by providing the funds to upgrade the design and construction of their respective stations from base-level designs to ones that are more architecturally cohesive with their surrounding areas. Coupling the effort with the stations in San Bernardino and Downtown Redlands, these partnerships between SANBAG, Esri and University of Redlands will make the rail project an integral part of their respective communities. With the Redlands Passenger Rail Project (RPRP) service scheduled to begin in 2020, trains will follow an existing nine-mile right-of-way between the San Bernardino Transit Center to the west and University of Redlands to the east with stops along the way, including Downtown Redlands and one adjacent to the Esri business campus in Redlands.

San Bernardino Associated Governments is managing the project using Measure I half-cent sales tax funds and is budgeted to build standard stations with platforms and canopies. The SANBAG Board approved cooperative agreements with Esri and the University of Redlands, authorizing those institutions to fund and build enhanced passenger stations. These partnerships provide opportunities for public agencies and private institutions to collaborate on projects to deliver enhanced results. SANBAG is also working with the City of Redlands on features at stations within the City.

Reflecting the style of surrounding architecture, the upgraded stations will feature shade trees, customized pedestrian access and other upgrades. The enhancements will not slow the project schedule. Upgrades to the stations will be funded by the respective agencies.

San Bernardino County Board of Supervisors Chairman and SANBAG Board Member James Ramos said he's excited to see how the Redlands Passenger Rail Project is coming together as a community project. "Public transit will help organizations like Esri and the University continue to attract top employees and students," he said. "With the state and local government facing limited resources, these public-private partnerships become more attractive and bring a level of creativity, efficiency and a sense of pride, which will drive economic growth in our county." Supervisor Ramos also chairs the Rail to Redlands Working Group – a group of community-based leaders in support of transit enhancements to the region.

The Latest News

Construction Manager Selected for Redlands Passenger Rail Project

As part of delivering the complex Redlands Passenger Rail Project, the SANBAG Board of Directors approved the award of a contract for Construction Management Services to AECOM. This five-year contract valued at more than \$17 million will support staff in the execution of a quality, effective construction effort that will provide passenger rail service in the east valley of San Bernardino County.

The Redlands Passenger Rail Project is currently in final design with construction scheduled to begin in 2017.

September is Rail Safety Month!

With September designated as Rail Safety Month, San Bernardino Associated Governments (SANBAG) partnered with Operation Lifesaver, Metrolink, and other railroad agencies across the state to encourage everyone to "Be Track Smart," with a series of events to emphasize the importance of safe behavior near railroad tracks and trains during the month of September. In recent years, there have been multiple incidents where individuals from across the world have been struck and killed by trains and vehicles while distracted. SANBAG wants to emphasize that every month is rail safety month and the message to the community is to "See Tracks, Think Train!"

For more safety tips, please visit www.oli.org.

In the Community

The RPRP Outreach team has visited more than 20 community groups throughout San Bernardino and Redlands and have participated in key events including a 66ers game. Participating in community events allows the residents and business owners an opportunity to learn about the Project and ask questions. Participation for RPRP team members provides them an opportunity to get to know the community.

IE 66ers Game

The RPRP Outreach team was on hand at the Inland Empire 66ers game in July. The crowd was out in droves on a scorcher of a summer night. We talked with dozens of people in attendance about the project and gave away hand-held fans that helped to keep attendees cool.

San Bernardino Third Thursday Food Fest

The outreach team joined hundreds of San Bernardino employees for lunch at the San Bernardino Third Thursday Food Fest in Downtown San Bernardino. The team spoke with numerous food truck patrons about the benefits of the Redlands Passenger Rail Project to Downtown San Bernardino once service begins in 2020.

Downtown Redlands Business Outreach

Recently, we visited over 100 businesses in the Downtown area to let them know the latest details about the project and to discuss how the Redlands Passenger Rail will address regional transportation needs by creating a safe, reliable, and cost-effective travel alternative for the community.

California Transit Association

Saturday, October 01, 2016

11/7/2016

On Board With - California Transit Association

Transit California



On Board With... Wendy Williams Director of Marketing & Planning, Omnitrans Chair, California Transit Association Program & Conference Committee

Wendy Williams has 35 years of professional experience in marketing and communications, including 25 years in the transit industry. She earned her degree in Journalism and Mass Communication from the University of Iowa. Williams joined Omnitrans, the transit agency serving the San Bernardino Valley in southern California, in 1991 and was promoted to Director of Marketing in 1995. In 2014, Williams took on additional responsibilities as Director of Marketing & Planning. In this role she oversees advertising, public relations, customer communications, sales and customer relations and outreach, along with short range and long range service planning, passenger amenities and capital projects for transit infrastructure and development. She currently serves as Chair of the California Transit Association's Program and Conference Committee. During her tenure, Omnitrans has earned 17 American Public Transportation Association AdWheel Awards for transit marketing excellence – including grand prize awards in 2009, 2012 and 2014.

Transit California:

What are the primary goals and objectives of the Association's Program & Conference Committee?

Wendy Williams:

With California Transit Association staff support, the Program & Conference Committee develops the conference theme and agenda, provides input on keynote speakers and general session topics, determines topics and enlists presenters and moderators for breakout sessions, organizes tech tours, and creates activities to encourage attendance at the vendor expo.

Our goal is to deliver a conference that both informs and inspires. In the span of two-and-a-half days, attendees learn how peers are effectively addressing the real-world challenges we all face. They explore the latest offerings in transit products and services at the vast vendor Expo, take advantage of networking opportunities that foster professional connections, and listen to keynote speakers and general sessions that are intended to reinvigorate our thinking and bolster our enthusiasm.

Transit California:

How many people are on the committee and what types of organizations do they belong to?

Wendy Williams:

The committee includes about 25 transit industry professionals from a variety of disciplines. We strive to have good balance between large, medium, and small transit agencies plus include representatives from the vendor/supplier community. The host agency (AC Transit in 2016) always plays a major role, especially in coordinating the tech tours, selecting the off-site networking event location, and providing staff support during the conference.

Transit California:

What is the most challenging aspect of this committee?

Wendy Williams:

Any time you are trying to deliver 20 different breakout sessions, which involve nearly 100 "volunteer" speakers and moderators, there will be challenges. It's pretty amazing that it comes together every year! Also, our committee never actually meets in person; all business is conducted through conference calls and emails. Luckily, everyone does a great job following through on his or her committee responsibilities.



Transit California:

What portion of the year does this committee meet to work on the conference?

Wendy Williams:

Most people probably don't realize that the Program & Conference Committee works nearly year round. We begin in February to develop the upcoming fall conference, holding bi-weekly conference calls. We brainstorm collectively on the conference theme, general sessions and breakout topics. Subgroups are formed to deal with concurrent sessions, general sessions, host agency logistics, and the expo activities. During the conference itself, many committee members take an active role as a presenter or moderator. After each conference we debrief and review attendee and vendor surveys to ensure continual improvement.

Transit California:

The 51st Annual Fall Conference and Expo will take place in Oakland next month, November 16-18, at the Oakland Marriott City Center and Oakland Convention Center. What are you looking forward to this year?

Wendy Williams:

I am looking forward to reconnecting with my transit colleagues from across the state, while also exploring the great city of Oakland. Our hosts at AC Transit are ready to show off their system and their community. Each year I make new connections, see new products and garner new ideas that I bring back to implement at my transit agency.

Transit California:

What does this year's theme, Transit Rising, mean to you?

Wendy Williams:

Transit Rising evokes a positive image and energy for our industry. It reflects on the vital role we play to raise our communities by connecting our customers with opportunities to enhance and improve their daily lives. It also calls upon us to rise to the challenges we face as an industry.

Transit California:

The conference fee for the two-and-a-half day program is \$375 (members) or \$475 (non-members) with most meals included. As a manager at Omnitrans, how do you see the return in investment for transit employees to not only take the time away, but also justify the expense to attend?

Wendy Williams:

What I hear from others is that the Association's fall conference is a great value. The agenda is jam-packed with opportunities to learn about practical real-world solutions to our every-day experiences. Vendors love that they can connect face-to-face with decision makers. Everyone needs to take a break from the routine to be inspired, gain new insights and have a little fun with industry peers.

Transit California:

If someone has a great idea for a speaker or a session, how would he or she go about sharing it with the committee? What if someone wanted to join the committee?

Wendy Williams:

We are always looking for ways to keep the conference fresh with new ideas and new members. Feel free to contact me directly or share your information with California Transit Association staff at the registration desk or at its booth at the Expo.

Transit California:

Is it too late to register for the Oakland conference?

Wendy Williams:

No! You can even register on site, if you wanted to. I encourage Transit California readers to not miss this opportunity and attend the premiere transit conference in California. Sign up before October 24 to take advantage of early registration fees. Can't wait to see you in Oakland!

Inland Empire Community Newspapers

Wednesday, October 05, 2016

Inland Empire Community News

October 5, 2016

Senator Leyva's landmark bill could soon help San Bernardino residents breathe better

Years of rallying has finally paid off for some residents of San Bernardino who have seen health hazards increase as their property values have decreased. Relief could come from Senate Bill 1000, designed to add equity to the city's general planning process. Reports from state agencies indicate those living near the Burlington Northern/Santa Fe (BNSF) rail yard and the Omnitrans fueling station on the Westside of Mount Vernon Avenue have been exposed to well above safe levels of air pollution.

SB 1000 authored by Senator Connie Leyva (Chino) is written to lessen the impact of pollution on those living in neighborhoods with a disproportionate amount of industry. Leyva's bill will mandate an eighth component to all future growth in the state. Known as the environmental justice element, it will be required before any development along with land use, circulation, open space, noise and safety.

SB 1000 is co-sponsored by the Center for Community Action and Environmental Justice. It will take effect Jan. 1, 2017. "This is the most important environmental bill enacted in years and Senator Leyva deserves a great deal of credit," said Penny Newman, executive director for the environmental action group who has offices in San Bernardino. "It has never been an accident that those who are least able to defend themselves are targeted for the most hazardous developments."

Leyva could not be reached for comment but her communications director Sergio Reyes referred to a prepared statement. Leyva thanked Gov. Brown for approving her bill she says will protect vulnerable residents who are exposed to high amounts of pollution and other environmental hazards. Leyva says that communities are often forced to address environmental justice issues such as air pollution or drinking water contamination after the fact. Her's is designed for "front end" study. "SB 1000 will statutorily require that local communities proactively evaluate and address these potential impacts in the general plans."

Leyva feels that inappropriate land use remains a leading cause of environmental inequities. "From the lack of basic infrastructure in rural areas to the exposure of residential and other sensitive land uses to toxins from industrial facilities. Consequently, residents in these communities often suffer higher rates of asthma, birth defects and cancer."

In a phone interview, Newman said SB 1000 is written so that it can be readily enforced. "Every city has a general plan that is updated every five years. This bill provides a mechanism for identifying those who have been neglected and provides an institutional way to remedy the problem," said Newman. She says Leyva's landmark measure lays a foundation whereby cities like San Bernardino can apply for a portion of the \$1.2 billion in state Greenhouse Gas Reduction Funds.

A map provided by the state environmental protection agency shows most of San Bernardino's city limits along I-215 is determined to be disadvantaged. Leyva's release shows roughly 20 percent of California's population living in areas that contain high concentrations of pollution, equating to about 7.4 million people. A study by Loma Linda University School of Public Health and other air quality agencies, show measurable levels of diesel fuel from BNSF polluting air within a mile radius. High numbers of respiratory problems have been reported at Ramona Alessandro Elementary School, where nearby residents were also concerned about Omnitrans flammable liquefied and compressed natural gas storage tanks located in their neighborhood.

When reached for comment about SB 1000, San Bernardino City Planning Manager Oliver Mujica said no one in his office knew about the bill and that he was not prepared to comment. Mujica said San Bernardino last conducted an update on its general plan in 2007 but an update would be conducted in a few years.

In response to its neighbors concerns, Omnitrans officials have said it could possibly change to a pipeline type of delivery system instead of storing its natural gas in two large tanks. Omnitrans had plans to eventually switch to electric powered buses. Likewise BNSF says it plans to change to low emission trucks and cleaner natural gas fueled locomotives. But long time neighborhood spokespersons Susana

Negrete and Erika Flores have said they can't wait until 2020, when those promised changes start going into effect.

Newman is confident SB 1000 will fast track plans to reduce environmental threats to their vulnerable neighborhood. "Their neighborhood is among the 5 percent that has already been targeted for the Green Gas Reduction funding," said Newman. "Yes, This bill is very enforceable." Newman acknowledged that planning departments are always looking to work around the law by way of zone changes, amendments, and ordinances. "We have a number of watchdogs but you just can't make laws and walk away. It takes local citizens to get involved."

Inland Empire Community Newspapers

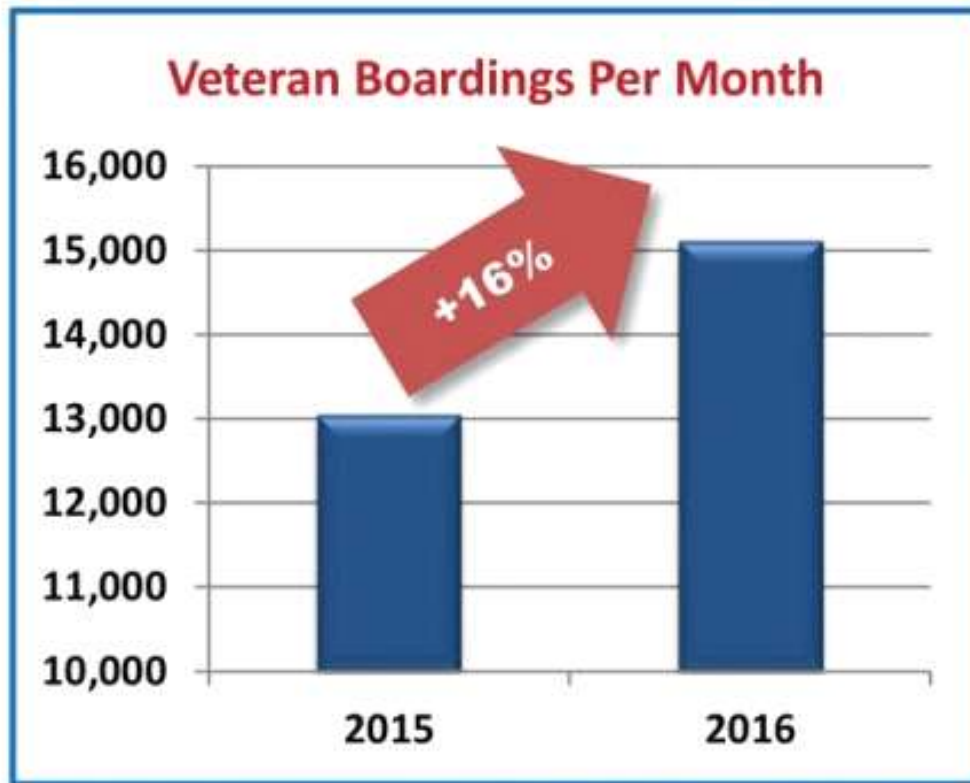
Wednesday, November 02, 2016

11/2/2016

Veterans Ride Omnitrans Free on Veterans Day - Inland Empire Community Newspapers

Veterans Ride Omnitrans Free on Veterans Day

By Contributing writer - November 2, 2016



In appreciation for the contributions of the men and women who have served in our nation's armed forces, Omnitrans again is offering free bus rides to US military veterans on Veterans Day, Friday, November 11.

Veterans just need to show a veteran-status ID when boarding any Omnitrans bus including freeway express and local bus routes, the sbX rapid line, or OmniGo community shuttles. Accepted veteran IDs include those issued by US Departments of Defense or Veterans Affairs, San Bernardino County Veterans Affairs, and the California Department of Motor Vehicles.

"We're pleased to honor our veterans with free rides on Veterans Day," said Omnitrans CEO/General Manager P. Scott Graham, himself a veteran of the US Marine Corps. Omnitrans provides ongoing fare discounts for military veterans. A one-way trip is \$0.75 for veterans, compared to \$1.75 regular fare; a veteran day pass is \$2.25 compared to the regular rate of \$5. Discounted veteran 7-day and 31-day bus passes are also available.

Since Omnitrans introduced a veteran fare in January 2015, an increasing number of retired military personnel have taken advantage of the discount. Boardings attributed to veterans in 2015 averaged 13,061 per month. In 2016, veteran monthly boardings are averaging 15,131 year-to-date, an increase of 16%.

All Omnitrans bus routes will be running regular schedules on November 11. The Veterans Day free ride offer is not applicable to Access service for persons with disabilities.

Personalized trip planning assistance is available through the Omnitrans information center, at 800-9-OMNIBUS (800-966-6428), or online at www.omnitrans.org.

Contributing writer

Highland Community News

Friday, November 04, 2016



Home » News » Breaking News

Omnitrans Offers Free Rides for Vets on Veterans Day

Story Comments

Print Font Size

Recommend 19 Share Tweet G+1 0 Share 0

Posted: Friday, November 4, 2016 3:19 pm

0 comments

To honor our veterans on Veterans Day, Omnitrans is offering free rides to the men and women who have served in the United States Armed Forces on Friday, November 11, 2016. It is our way of saluting those individuals who have contributed to protecting our nation's freedom.

To ride, veterans simply present an ID card indicating their retired military status upon boarding any of Omnitrans' vehicles including sbX, Freeway Express, OmniGo community shuttles, and our local fixed-route buses. Accepted forms of ID include those issued by US Departments of Defense or Veterans Affairs, San Bernardino County Veterans Affairs, and the California Department of Motor Vehicles.

A Food 4 Less advertisement featuring a Kroger Party Pails container and a "New! Lower prices" banner. The price "\$5.99" is prominently displayed. A "Valid until Nov 8" and "Hover for Ad" button are at the bottom.

Since January 2015, Omnitrans has offered rides at a reduced fare for the approximate 79,000 veterans living in the San Bernardino Valley. Required methods of proof of eligibility for such fare discount include:

- County of San Bernardino Military Veterans ID card
- US Department of Veteran Affairs ID card
- Department of Defense retired ID card, or
- A transit agency Veterans ID card

If you are a veteran and would like to apply for the San Bernardino County Military Veterans ID card, apply online at: <http://hs.sbcounty.gov/va/Pages/Veterans-ID-Card-Program.aspx>.



Submit Your News!



We're always interested about news in our community. We know what's going on.



Highland Community News

Friday, November 11, 2016

Highland Community News

November 11, 2016

OmniTrans Board approves passenger rail brand

Posted: Friday, November 11, 2016 2:17 pm



Arrow logo

Rail Service between San Bernardino and Redlands to be called "Arrow"

On Tuesday, November 2, 2016, the OmniTrans Board of Directors unanimously approved the Redland Passenger Rail Service Branding Initiative for the passenger service line that will be created from the Redlands Passenger Rail Project (RPRP). The intent of the Service Branding Initiative was to create a brand identity consisting of a service name, logo, and visual identity; established through research and messaging, resulting in the creation of a style guide and brand voice to set the stage for passenger rail service.

The Service Branding Initiative began as part of the strategic plan developed in 2015 by the San Bernardino Associated Governments (SANBAG) for the new 9-mile rail corridor scheduled for service launch in 2020. In November 2015, SANBAG's Board approved negotiations with OmniTrans to provide maintenance of equipment and rail operations services for the RPRP. This was subsequently approved by the OmniTrans Board in February 2016. Since the new rail service would be operated by OmniTrans, staff at both agencies recommended that the OmniTrans Board be the lead agency for approval of service branding.

"As final design of the Redlands Passenger Rail Project is nearing 60%, and with construction beginning early in 2017, this is another exciting milestone that looks beyond the construction portion of the project and into actual passenger rail service which is scheduled to begin in 2020," said San Bernardino Associated Governments President Robert Lovingood.

The new brand will be launched to the public in January 2017 with an initial focus on transitioning from the "Redlands Passenger Rail Project" construction project name to the new service brand. This approach will be executed in an effort to create high levels of awareness and interest throughout the region prior to the commencement of service in 2020.

Redlands Daily Facts

Wednesday, November 16, 2016

Redlands Daily Facts

November 16, 2016

Redlands passenger rail service to be called Arrow



The Redlands Passenger Rail Project will soon be known as "Arrow." FILE PHOTO

By [Sandra Emerson](#), *Redlands Daily Facts*

POSTED: 11/16/16, 7:47 PM PST | UPDATED: 2 WEEKS, 6 DAYS AGO

[1 COMMENT](#)

REDLANDS >> The passenger rail service coming to Redlands has a new name.

The service from downtown San Bernardino to the University of Redlands, previously known as the [Redlands Passenger Rail Project](#), will officially be known as "Arrow."

Representatives from San Bernardino Associated Governments, the lead agency on the project, shared the new branding during Tuesday's Redlands City Council meeting.

"We are very proud of it," said Tim Watkins, chief of legislative and public affairs for SanBAG. "The Arrow will be the name of the service going forward, but until then it's still the Redlands Passenger Rail project that's building the Arrow service down the road."

SanBAG worked with a focus group and its marketing team to come up with the new branding, which would give the agency flexibility in expanding the service throughout the county, Watkins said.

SanBAG plans to ramp up its public outreach efforts in January, when utility relocation is expected to begin, he said.

Construction is anticipated to start in mid-2017 with operations beginning in 2020.

"We are rapidly approaching a design milestone of 60 percent," Justin Fornelli, chief of transit and rail programs with SanBAG, said Tuesday. "We're going to be completing that next month."

Fornelli shared other project updates with the council, including SanBAG's recent decision to build a station at Tippecanoe Avenue instead of Waterman Avenue in San Bernardino.

"We completed an update to our ridership estimates and based on that ridership analysis, we identified that the Tippecanoe location is going to have significantly more ridership than the Waterman station," Fornelli said.

The project's estimated cost has been revised to \$285.5 million, up from the \$242 million estimated in 2013.

The use of diesel multiple units, Metrolink service, implementation of positive train control and additional funding for construction contingencies have driven the cost increases, Fornelli said.

"It's important to point out the project back in 2013-14 is significantly different than what the project is that we're looking at today," he said.

The project has received an [\\$8.7 million federal grant](#) and a \$9.2 million state grant.

Renderings have been drawn up for the stations at New York Street, near Esri, downtown and University of Redlands.

MASS TRANSIT

Friday, November 18, 2016

Mass Transit

November 18, 2016

CA: Redlands Passenger Rail Service to be Called Arrow

SANDRA EMERSON ON NOV 18, 2016

SOURCE: MCCLATCHY

Nov. 17--REDLANDS -- The passenger rail service coming to Redlands has a new name.

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The project has received an \$8.7 million federal grant and a \$9.2 million state grant.

Renderings have been drawn up for the stations at New York Street, near Esri, downtown and University of Redlands.

SanBAG has reached agreements with Esri and the University of Redlands to fund construction of the stations there.

The downtown station, which will be adjacent to the historic Santa Fe Depot, will complement the historic look of the depot without copying it, Fornelli said.

Omnitrans will operate the shuttle service, which includes the use of diesel multiple units.

Metrolink will provide express train service to downtown Redlands. Metrolink also will be responsible for maintaining the track, structures, signals and dispatch.

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Sun

Monday, November 28, 2016

The Sun

November 28, 2016

Omnitrans offers free bus service to San Bernardino terror attack memorial



By [Ryan Hagen](#), The Sun

POSTED: 11/28/16, 5:50 PM PST UPDATED: 1 WEEK, 1 DAY AGO

[0 COMMENTS](#)

SAN BERNARDINO >> People can get to the Night of Remembrance on Dec. 2 for free with extended sbX bus hours, Omnitrans announced Monday.

The [bus line](#) runs from Loma Linda University Medical Center to Cal State San Bernardino, where thousands are expected to remember the one-year anniversary of the terrorist attack that left 14 dead and 22 wounded.

Speakers from religious organizations, law enforcement, federal agencies and others will speak Friday at the school's Coussoulis Arena. The night will include uplifting musical selections from members of the community and will highlight partners that have helped to rebuild and unite San Bernardino, according to a news release from Mayor Carey Davis.

"I am humbled by the partners that have come together to unite for this event," Davis said in the news release. "Our community continues to stand together united in solidarity and support for the victims, survivors and families of those affected by the Dec. 2 terrorist attack."

The Night of Remembrance will air live on the [city's YouTube channel](#), as well as the local government access channel. The program begins at 6:30 p.m. and doors open at 5:30 p.m.

The sbX service begins at 5 p.m., with the last bus leaving CSUSB at 9:30 p.m.

The bus stops at or near San Bernardino Transit Center, downtown Civic Center, San Bernardino High School, San Manuel Stadium, Inland Center mall, Orange Show Events Center, Hospitality Lane and the VA Hospital.



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

ITEM # F1

DATE: January 4, 2017

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

FROM: P. Scott Graham, CEO/General Manager

SUBJECT: CEO/GENERAL MANAGER'S REPORT

The construction phase of installing a CNG pipeline has commenced at both East and West Valley Bus Divisions. Completion is scheduled for end of January; fueling will begin immediately thereafter. The completion of this project will achieve a significant part of our Annual Management Plan's Fuel Cost Reduction Initiative. Projected cost savings per year estimated at \$1 million.

Completed and forwarded legal review of SBCTA Redlands Rail Operations & Maintenance Agreement to SBCTA. Anticipate this Agreement will be coming before the Board of Directors within the next two months.

PSG:vd

ITEM # _____ F2

DATE: January 4, 2017

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

FROM: P. Scott Graham, CEO/General Manager

**SUBJECT: WEST VALLEY CONNECTOR – ASSIGNMENT TO SAN BERNARDINO
COUNTY TRANSPORTATION AUTHORITY**

FORM MOTION

1. Direct staff to develop a Cooperative Agreement with the San Bernardino County Transportation Authority (SBCTA), designating SBCTA as the lead agency for Environmental Clearance, Design, Right-of-Way Acquisition and Construction of the West Valley Connector; and
2. Authorize the CEO/General Manager, or his designee, to develop and execute Assignment and Assumption Agreement No. 17-1001636 with SBCTA, and Parsons Transportation Group, Inc., for Omnitrans' assignment and SBCTA's assumption of Omnitrans' existing Architectural, Engineering and Final Design Services (SERVICES AGREEMENT) with Parsons Transportation Group, Inc., for the West Valley Connector. The effective date of this Agreement is contingent upon concurrence of the Federal Transit Administration and final review by General Counsel.

The Executive Committee discussed this transition at its December 7, 2016, meeting, and recommends this item to the Board of Directors for approval. SBCTA is presenting a corresponding item to its Board of Directors on January 4, 2017.

BACKGROUND

The West Valley Connector Project (Project) is part of a system of ten planned bus rapid transit (BRT) corridors proposed in Omnitrans System-Wide Transit Corridor Plan for the San Bernardino Valley (October 2010). The West Valley Connector was developed taking into account the highest ridership section of Holt and Foothill corridors. Omnitrans began developing the project in an effort to provide faster, more frequent and more direct bus service to connect major destination throughout the western part of the San Bernardino Valley. The System-wide Transit Corridors Plan for the San Bernardino Valley originally identified a corridor alignment that generally follows existing Route 61, which is the highest ridership route in Omnitrans' system, carrying 1.5 to 1.8 million riders per year. Route 61 connects several major West Valley destinations, including the Ontario International Airport, Ontario Mills, and Kaiser Medical Center Fontana. It also provides connections to two Metrolink stations on two different

Metrolink lines, commuter express lines operated by Riverside Transit Agency and Foothill Transit Agency, and multiple other Foothill Transit routes.

An Alternatives Analysis (AA) for the West Valley Connector was completed in September 2014. The AA included a comparison of 16 project alternatives, which resulted in a proposed 25-mile-long bus rapid transit corridor serving the five cities of Pomona, Montclair, Ontario, Rancho Cucamonga and Fontana. The proposed project includes enhances stops/stations, real-time arrival signage, surveillance and security systems, transit signal priority systems, and dedicated bus lanes on 3.5 miles on Hold Boulevard in the City of Ontario. Ridership is project to increase on the corridor by 25% near-term and travel time is projected to decrease by 5-10%, benefiting all five cities.

On November 4, 2015, the Omnitrans Board of Directors awarded Contract MKP15-37 to Parsons Transportation Group, Inc. (Parsons) for Architectural, Engineering and Final Design Services for the West Valley Connector Project. As part of the Parsons' contract, Omnitrans proceeded with the full BRT option with the intention of seeking Federal Transit Administration (FTA) Small Starts Grant funding. Although a preliminary funding plan has been developed, a funding plan for the necessary match of 50.6% has not yet been fully developed in partnership with SBCTA. Additionally, SBCTA anticipates that the actual cost associated with right-of-way acquisition is higher than originally estimated. SBCTA staff also believes that additional time is needed to acquire the necessary right-of-way than allotted for in the Project schedule, which currently indicates construction will begin in mid-2018.

CONCLUSION

In 2013, as part of the Omnitrans Comprehensive Operational Analysis, it was agreed that Omnitrans would focus on its role as operator and SBCTA would focus on delivery of capital projects and allocation of funding. Although it was originally envisioned that the West Valley Connector would be implemented as a rapid or express service, it has now transitioned to a larger BRT capital project. As such, staff is recommending that the Parsons contract be transferred to SBCTA for implementation. Omnitrans will still remain a strong project partner with a focus on providing the necessary input for service implementation.

PSG:vd

ITEM # _____ F3 _____

DATE: January 4, 2017

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

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Jennifer M. Sims, Director of Procurement

**SUBJECT: AUTHORIZE AWARD – CONTRACT ADM17-29
GENERAL COUNSEL LEGAL SERVICES**

FORM MOTION

Authorize the CEO/General Manager to award Contract ADM17-29 to Best Best & Krieger, LLP of Riverside, CA for the provision of General Counsel Legal Services for a two (2) year base period beginning January 8, 2017, and the authority to exercise three (3) single option years tied to the Consumer Price Index (CPI) extending the contract to no later than January 7, 2022, in the amount of \$798,121, plus a ten percent contingency of \$79,812, for a total not-to-exceed amount of \$877,933, should all option years be exercised.

BACKGROUND

Since the formation of Omnitrans' Joint Powers Agreement, San Bernardino County's General Counsel (County Counsel) was appointed by the Board of Directors as Omnitrans' primary source of legal services. County Counsel provided day-to-day legal services with respect to the R.M. Brown Act, ethics, employee relations, and relations with collective bargaining units, conflicts of interest, contract law, legal review and oversight over procurement contracts and all manners of inter-governmental agreements, formulation of language and negotiations over non-standardized contracts for special projects. County Counsel assisted in the defense of Omnitrans against grievances and all other general counsel legal services. In February 2016, Omnitrans was notified that County Counsel would no longer be providing legal services to Omnitrans as of June 30, 2016.

On January 8, 2013, Omnitrans' Board of Directors authorized an agreement with Burke, Williams and Sorensen, LLP (Burke) of Riverside, CA to provide supplemental legal services through January 7, 2018. On July 1, 2016, Burke became Omnitrans' primary source of legal services until a new contract could be awarded.

On September 30, 2016, Omnitrans' Board of Directors authorized the release of Request for Proposals RFP-ADM17-29 for General Counsel Legal Services. Notices were published in two

local newspapers of general circulation and posted on Omnitrans' online bidding system. Seven (7) proposals were received by the November 1, 2016 deadline, and all were deemed responsive and responsible.

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

Selection Criteria	Total Points Possible	Best Best & Krieger	Jones & Mayer	Burke, Williams, Sorensen, LLP	Atkinson, Andelson, Loya, Ruud & Romo	Varner & Brandt	Carlson & Messer LLP	Orrock Popka Fortino Tucker & Dolen
Qualifications of the Firm	30	25.50	25.00	25.00	19.50	18.00	15.00	14.00
Quality of Work	15	12.75	12.50	12.50	8.75	7.00	6.00	6.50
Experience	20	16.33	16.67	16.00	12.33	10.00	9.33	8.67
Total Technical Score	65	54.58	54.17	53.50	40.58	35.00	30.33	29.17

The following three firms scored the highest technically and were interviewed by the evaluation committee. Upon conclusion of the interviews, the committee reevaluated the firms and established the competitive range based on new technical scores to determine which proposers would be eligible for further consideration. Cost/Price scores were then added in. Below are the revised scores ranked from highest to lowest:

Selection Criteria	Total Points Possible	Best Best & Krieger	Burke, Williams, Sorensen, LLP	Jones & Mayer
Technical Score	65	54.58	53.00	49.83
Interviews	10	8.50	8.00	6.33
Subtotal	75	63.08	61.00	56.16
Cost/ Price	25	25	24.39	
Totals	100	88.08	85.39	

On December 15, 2016, the current Board Chair, immediate past Chair, and CEO/General Manager interviewed the top two ranking firms Best Best & Krieger, LLP and Burke, Williams, Sorensen, LLP to validate the evaluation committee's rankings. In accordance with the solicitation, staff conducted competitive negotiations with both firms before inviting Best and Final Offers.

Selection Criteria	Total Points Possible	Best Best & Krieger	Burke, Williams, Sorensen, LLP
Technical Total	75	63.08	61.00
BAFO Cost/ Price	25	25.00	23.93
Totals	100	88.08	84.93

Best Best & Krieger reduced their fully burdened hourly rate of \$255 per hour for Basic General Counsel Services for Partners and Of Counsel and Associates to \$245 per hour for an estimated savings of over \$16,000 should all options be exercised.

Best Best & Krieger's experience with the Federal Transit Administration, the Federal Rail Administration, and rail operators contributed to their higher technical ranking. Based on the evaluation of the written proposals, the firms' qualifications, and the information obtained from the interviews, award is recommended to the highest ranking firm, Best, Best & Krieger, LLP.

The proposed cost of \$798,121 is \$100,689 less than the Independent Cost Estimate of \$898,810, and therefore is deemed fair and reasonable.

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

FUNDING SOURCE

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

Department 1300
Expenditure Code 503060

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

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

CONCLUSION

By proceeding with this award, Omnitrans will have continuous legal service support.

PSG:JMS:KT



CONTRACT AGREEMENT

between

Best Best & Krieger LLP
3390 University Avenue, 5th Floor
Riverside, CA 92501

(hereinafter "CONSULTANT")
Telephone: (951) 686-1450
Email: haviva.shane@bbklaw.com

And

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

CONTRACT DOCUMENTS

CONTRACT NO. ADM17-29

GENERAL COUNSEL LEGAL SERVICES

Contract Amount: \$ 311,668

Omnitrans Project Manager:

Name: P. Scott Graham
Title: CEO/General Manager
Telephone: (909) 379-7100
Email: scott.graham@omnitrans.org

Contract Administrator:

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



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ATTACHMENT A – SCOPE OF WORK

ATTACHMENT B – REGULATORY REQUIREMENTS

ATTACHMENT C – PRICING

ATTACHMENT D - FORMS

This Agreement is made and entered into as of this 8th day of January 2017, by and between Omnitrans (hereinafter referred to as "OMNITRANS") and Best Best & Krieger LLP (hereinafter referred to as "CONSULTANT").

RECITALS

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

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

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

1. SCOPE OF WORK

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

2. PERIOD OF PERFORMANCE

The term of this Agreement shall be from the date of execution of this Agreement and continue in effect through January 7, 2019, unless terminated as specified in Section 10 and 11 of this Agreement. Omnitrans has no obligation to purchase any specified amount of products/services. All applicable indemnification provisions in this Agreement shall remain in effect following the termination of this Agreement.

Omnitrans' election to extend the Agreement beyond the Initial Term shall not diminish its right to terminate the Agreement for Omnitrans' convenience or CONSULTANTS default as provided elsewhere in this Agreement. The "maximum term" of this Agreement shall be the period extended from _____ January 8, 2019 through January 7, 2022, which period encompasses the Initial Term and the Option Year One, Option Year Two, and Option Year Three.

3. CONTRACT OPTIONS

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

4. COMPENSATION

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

OMNITRANS' maximum cumulative payment obligation under this Agreement shall not exceed Three Hundred Eleven Thousand Six Hundred and Sixty Eight Dollars (\$311,668), including all amounts payable to CONSULTANT for all costs, including but not limited to direct labor, other direct costs, subcontracts, indirect costs including, but not limited to, leases, materials, taxes, insurance, and profit.

5. INVOICING AND PAYMENT

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

CONSULTANT shall submit invoices in duplicate to:

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

Accountspayable@omnitrans.org

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

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

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

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

C. TITLE

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

6. AUDIT AND INSPECTION OF RECORDS

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

7. NOTIFICATION

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

To OMNITRANS:

Omnitrans
1700 West Fifth Street
San Bernardino, CA 92411
Attn: Krystal N. Turner
Contract Administrator
Krystal.turner@omnitrans.org

To CONSULTANT:

Best Best & Krieger LLP
3390 University Avenue, 5th Floor
Riverside, CA 92502
Attn: A. Haviva Shane
Of Counsel - Lead General Counsel
Haviva.shane@bbklaw.com

8. OMNITRANS' AND CONSULTANT'S REPRESENTATIVES

A. OMNITRANS' Project Manager

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

Project Manager: P. Scott Graham, CEO/General Manager.

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

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

B. Consultant's Key Personnel

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

<u>Name</u>	<u>Role</u>
A. Haviva Shane	Of Counsel – Lead General Counsel
Steven C. Debaun	Backup General Counsel
Charity B. Schiller	Partner – Environmental/Natural Resource
Scott W. Ditfurth	Partner – Claims Resolution/Litigation
Glen W. Price	Partner – Corporate Transactional

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

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

9. DISPUTE RESOLUTION

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

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

CEO/General Manager shall issue the recommended decision in writing and provide a copy to proposer.

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

10. TERMINATION FOR CONVENIENCE

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

11. TERMINATION FOR BREACH OF AGREEMENT

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

OMNITRANS for all of its costs and damages, including, but not limited, any excess costs for such Work.

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

12. ASSIGNMENT

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

13. SUBCONTRACTING

OMNITRANS hereby consents to CONSULTANT's subcontracting of portions of the Work to the parties identified below for the functions described in CONSULTANT's proposal. CONSULTANT shall include in each subcontract agreement the stipulation that CONSULTANT, not OMNITRANS, is solely responsible for payment to the 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 CONSULTANT.

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

14. INDEPENDENT CONSULTANT

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

15. INSURANCE

A. INSURANCE REQUIREMENTS

1) General Requirements for Consultant

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

2) Deductibles or Self-Insured Retention (SIR)

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

3) Other Insurance Provisions

a. Commercial General Liability and Automobile Liability

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

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

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

b. Workers' Compensation

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

c. Care, Custody, and Control

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

4) Acceptability of Insurers

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

5) Verification of Coverage

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

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

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

6) Subcontractors

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

7) Notification of Terminated Insurance

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

B. MINIMUM INSURANCE COVERAGE

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

- 1) ☒ **Commercial General Liability including Products/Completed Operations:** \$1,000,000; per occurrence for bodily and property damage liability and \$2,000,000 aggregate; *Omnitrans named and endorsed as an Additional Insured.*
- 2) ☒ **Automobile Liability:** \$1,000,000; per occurrence for bodily and property damage liability and aggregate; *Omnitrans named and endorsed as an Additional Insured.*
- 3) ☒ **Errors and Omissions Liability:** \$1,000,000; combined single limit bodily and property damage liability per occurrence and \$ 3,000,000 aggregate or,
- 4) ☒ **Professional Liability:** \$1,000,000; per occurrence and aggregate.
- 5) ☒ **Workers' Compensation:** statutory limits or,

- 6) ☐ **Self Insurance Program:** a State Approved program in an amount and form that meets all applicable requirements of the Labor Code of the State of California.
- 7) ☒ **Employer's Liability:** \$1,000,000; per occurrence.
- 8) ☐ **Environmental Liability:** \$1,000,000; per occurrence and aggregate; *Omnitrans named and endorsed as an Additional Insured.*
- 9) ☐ **Umbrella Policy:** \$4,000,000; per occurrence and aggregate Additional coverage for the above policies, *Omnitrans Additional Insured.*
- 10) ☐ All drivers making deliveries of products specified on this solicitation shall have Hazardous Materials Endorsements on their Commercial Drivers License, and such other Endorsements as may be required by relevant laws and/or regulations.

16. INDEMNITY

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

18. RIGHTS IN TECHNICAL DATA

- A. No material or technical data prepared by CONSULTANT under this Agreement is to be released by CONSULTANT to any other person or entity except as necessary for the performance of the Work. All press releases or information concerning the Work that might appear in any publication or dissemination, including but not limited to, newspapers, magazines, and electronic media, shall first be authorized in writing by OMNITRANS.

- B. The originals of all letters, documents, reports and other products and data produced under this Agreement shall become the property of OMNITRANS without restriction or limitation on their use and shall be made available upon request to OMNITRANS at any time. Original copies of such shall be delivered to OMNITRANS upon completion of the Work or termination of the Work. CONSULTANT shall be permitted to retain copies of such items for the furtherance of its technical proficiency; however, publication of this material is subject to the prior written approval of OMNITRANS. The provisions of this paragraph shall survive termination or expiration of this Agreement and/or final payment thereunder.

19. OWNERSHIP OF REPORTS AND DOCUMENTS

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

20. OWNERSHIP RIGHTS

- A. In the event OMNITRANS rightfully obtains copies of Proprietary Data under the terms of the separate License Agreement and Escrow Agreement that govern rights in Documentation, Software and Intellectual Property created and/or developed by Consultant, its Third Party Software 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 CONSULTANT, and OMNITRANS shall not sell, lease, rent, give away or otherwise disclose any OMNITRANS Intellectual Property to any outside third party other than Permitted Programmers. To the extent there may be any question of rights of ownership or use in any OMNITRANS Intellectual Property, Consultant shall require all of its 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. Consultant shall

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

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

21. WORK FOR HIRE

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

22. SUBMITTAL OF CLAIMS BY CONSULTANT

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

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

23. EQUAL OPPORTUNITY

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

24. STANDARD OF PERFORMANCE

- A. CONSULTANT shall perform and exercise, and require its subcontractors to perform and exercise due professional care and competence in the

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

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

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

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

26. DISQUALIFYING POLITICAL CONTRIBUTIONS

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

27. COMPLIANCE WITH LAW

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

28. COMPLIANCE WITH LOBBYING POLICIES

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

29. PUBLIC RECORDS ACT

- A. All records, documents, drawings, plans, specifications and other material relating to conduct of OMNITRANS' business, including materials submitted by CONSULTANT in its proposal and during the course of performing the Work under this Agreement, shall become the exclusive property of OMNITRANS and may be deemed public records. Said materials may be subject to the provisions of the California Public Records Act. OMNITRANS' use and disclosure of its records are governed by this Act.
- B. OMNITRANS will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act, including interpretations of the Act or the definitions of trade secret, confidential or proprietary. OMNITRANS will accept materials clearly and prominently labeled "TRADE SECRET" or "CONFIDENTIAL" or "PROPRIETARY" as determined by CONSULTANT. OMNITRANS will

endeavor to notify CONSULTANT of any request of the disclosure of such materials. Under no circumstances, however, will OMNITRANS be liable or responsible for the disclosure of any labeled materials whether the disclosure is required by law or a court order or occurs through inadvertence, mistake or negligence on the part of OMNITRANS or its officers, employees and/or contractors.

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

30. WAIVER/INVALIDITY

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

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

31. FORCE MAJEURE

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

32. CONFIDENTIALITY

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

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

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

34. GOVERNING LAW

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

35. MODIFICATIONS TO AGREEMENT

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

36. LICENSING, PERMITS AND INSPECTION COSTS

- A. The CONSULTANT warrants that it has all necessary licenses and permits required by the laws of the United States, State of California, and the County of San Bernardino, the Local Jurisdictions, and all other appropriate governmental agencies, and agrees to maintain these licenses and permits in effect for the duration of the Agreement. Further, FIRM warrants that its employees, agents, and 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. CONSULTANT further warrants that it shall not retain or employ an unlicensed subcontractor to perform work on this Project. CONSULTANT 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. CONSULTANT shall procure all permits and licenses; pay all charges, assessments and fees, as may be required by the ordinances and regulations of the public agencies having jurisdiction over the areas in which the work is located, and shall comply with all the terms and conditions thereof and with all lawful orders and regulations of each such public agency relating to construction operations under the jurisdiction of such agency.

37. PRECEDENCE

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement, and any and all of its Amendments, Appendices, Exhibits and Attachments; (2) provisions of RFP-ADM17-29 and any and all of its Addenda, Appendices, Exhibits and Attachments; and (3) CONSULTANT's proposal dated November 1, 2016.

38. ENTIRE AGREEMENT

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

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

OMNITRANS

BEST BEST & KRIEGER LLP

P. Scott Graham
CEO/General Manager

Steven Debaun
Partner

Date

Date

DP____

Federal Tax I.D. No. 95-2157337

CM____

ATTACHMENT A - SCOPE OF WORK
ADM17-29
GENERAL COUNSEL LEGAL SERVICES

1. SCOPE OF SERVICES

- A. Consultant shall provide legal advice, counsel, consultation and opinions for Omnitrans, in-person, telephone, e-mail or in writing.
- B. Consultant shall provide customary legal services to Omnitrans as requested. Services may include legal advice on matters pertaining to the Ralph M. Brown Act, Rosenberg's Rules of Order, ethics, employee relations, public employee laws, railroad operating laws, environmental laws, storm water prevention and pollution, corporate transactional laws, intellectual property, relations with collective bargaining groups, conflicts of interest, procurement contract negotiations, public contract laws, construction, finance, historic designation, workers' compensation, right-of-way, condemnation, legal oversight over inter-agency agreements, and the interpretation of transportation laws under U.S. Code: Title 49, Federal Transit Administration (FTA) regulations under Title 49 of the Code of Federal Regulations (CFR), Federal Acquisition Regulation (FAR). The Agency's staff may request assistance in the formulation of, and negotiations over, non-standardized contracts for special projects.
- C. Consultant shall participate in negotiations for procurement contracts, inter-governmental agreements, as well as, other agreements where Omnitrans considers legal counsel's presence necessary.
- D. Consultant shall, assist in the handling and defense of Omnitrans against grievances, torts, and all other manner of claims.
- E. Consultant shall represent Omnitrans at labor arbitrations.
- F. Consultant shall undertake any necessary research into legal matters affecting Omnitrans and provide advice on a prudent and/or essential course of action.
- G. Consultant shall seek any necessary opinions, letter rulings or other documentation on legal matters impacting Omnitrans and provide advice on a prudent or essential course of action.
- H. Consultant shall complete Statement of Economic Interests – Form 700 under California's Political Reform Act of 1974 – Omnitrans has identified the positions required to complete the Fair Political Practices Commission's, Statement of Economic Interests Form 700 as Board of Directors, selected staff, legal counsel, and consultants. The Political Reform Act requires the designated individuals to disclose their financial interests, including: investments, real estate (real property) holdings, income, gifts and travel payments received from any sources that might intersect their public responsibilities. It is the *personal responsibility* of each individual to ensure that he/she avoids participating in any governmental decision making involving their financial interests, particularly those that have been identified on a Form 700. Form 700s must be filed within 30 days of contract award, on an annual basis, within 30 days expiration of the contract or leaving the

ATTACHMENT A - SCOPE OF WORK
ADM17-29
GENERAL COUNSEL LEGAL SERVICES

Consultant's employment, whichever comes first, and within 30 days of the effective date of a newly adopted or amended conflict of interest code.

2. GENERAL REQUIREMENTS

Consultant shall attend Omnitrans' Board of Directors (Board) meetings and provide on-going general legal counsel. Counsel must actively participate in all aspects of cases as requested.

- A. American with Disabilities Act
Advise and assist staff in responding to Americans with Disabilities Act (ADA) claims. Represent Omnitrans in various administrative proceedings and litigation. Report to Omnitrans' Board or Board Committees, as necessary.
- B. Civil Rights
Advise and assist staff in responding to claims and complaints regarding violations of civil rights, both federal and state. Represent and defend Omnitrans in various administrative proceedings and litigation. Report to Omnitrans' Board or Board Committees, as necessary.
- C. Construction Contracts and Claims Law
Advise and represent Omnitrans in construction contracts and claims resolution. Represent the Omnitrans Board in litigation related to construction defects, contractor and subcontractor performance issues, and contract claims. Report to Omnitrans' Board or Board Committees, as necessary.
- D. Corporate and Transactional Law
Advise and represent Omnitrans' Board in construction contract and claims resolution. Represent Omnitrans' Board in litigation relating to construction defects, contractor and subcontractor performance issues, and contract claims. Report to Omnitrans' Board or Board Committees, as necessary.
- E. Criminal Law
Represent Omnitrans' during criminal proceedings, including Pitchess motions and various discovery motions. Represent and defend Omnitrans and staff in various criminal proceedings. Act as a liaison with the San Bernardino County District Attorney's office for criminal proceedings involving violations local, state or federal ordinances. Report to the Omnitrans' Board or Board Committees, as necessary.
- F. Labor and Employment Law
Advise and assist staff on various public agency labor law issues, collective bargaining, grievances, arbitrations, employment discrimination, employee benefits and public employee law issues. Represent the Omnitrans Board in labor-

ATTACHMENT A - SCOPE OF WORK
ADM17-29
GENERAL COUNSEL LEGAL SERVICES

related and employee rights litigation. Report to Omnitrans' Board or Board Committees, as necessary.

G. Environmental Law

Advise and assist staff as necessary in review and preparation of environmental documents under California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA). Work with permitting agencies to secure necessary permits for construction. Assist in negotiations of mitigation requirements with regulating agencies. Assist in site cleanup issues, including permitting, disposal, and site closure. Assist in Air Quality and Storm Water Prevention and Pollution requirements and claims. Pursue actions against responsible practices for costs of cleanup. Defend Omnitrans Board in challenges to Omnitrans Board's environmental reviews and analyses. Report to Omnitrans' Board or Board Committees, as necessary.

H. Finance

Advise and assist staff in the preparation of financial documents, including sale/leaseback, lease/leaseback, revenue anticipation notes, pension obligation bonds, revenue anticipation notes, bankruptcy, and other such matters. Support work and audits involving corporate securities and tax issues. Advise and assist staff in the formation of nonprofit and public benefit corporations, including tax implications. Report to Omnitrans' Board or Board Committees, as necessary.

I. Historic Designation

Advise and assist staff in preparing all necessary documents for historic designation. Represent Omnitrans in various administrative proceedings and litigation as it relates to state or federal historic designation. Report to Omnitrans' Board or Board Committees, as necessary.

J. Insurance

Advise and assist Omnitrans in coverage questions and determinations, insurance policy interpretations, insurance recovery issues, and bad faith claims. Report to Omnitrans' Board or Board Committees, as necessary.

K. Intellectual Property

Advise and assist Omnitrans in matters pertaining to patents, trademarks, and copyrights, including filings and enforcement issues. Report to Omnitrans' Board as necessary.

L. Liability Attorney

- a. May represent Omnitrans as legal counsel in threatened and actual litigation in state and federal courts, demonstrate familiarity and experience with the California Tort Claims Act.

ATTACHMENT A - SCOPE OF WORK
ADM17-29
GENERAL COUNSEL LEGAL SERVICES

- b. Prepare appropriate legal pleadings and documents necessary to defend liability lawsuits, including demurrers, answers to complaints, cross complaints, motions, dismissals, and other pleadings as necessary.
- c. Provide opinions as to cases assigned, including determinations of both liability and damages, as requested.
- d. Handle approved legal discovery, including the preparation of interrogatories, the conducting of depositions, and the subpoena of records.
- e. Arrange for the selection of expert witnesses, including doctors, engineers, accident reconstructionists, and other witnesses.
- f. Appear at court hearings, court conferences, and trials.
- g. Work closely with, and obtain authority from Omnitrans prior to proceeding with a plan of defense.

M. Railroad Operating Law

Advise and counsel Omnitrans regarding all matters of railroad operations, Federal Railroad Administration, public utilities code, rights-of-way, railroad easements, joint use agreements, and any and all laws related to the operation of heavy or light rail vehicles. Represent Omnitrans in various administrative proceedings and litigation. Report to Omnitrans' Board or Board Committees, as necessary. In the event the prime firm lacks rail experience and elects to engage a subconsultant, the personnel/subconsultant must be approved by Omnitrans and will not be removed without prior approval of Omnitrans (if applicable).

N. Real Estate

Assist and advise Omnitrans in property acquisitions, inverse condemnation claims, and changes in eminent domain law. Represent Omnitrans' Board in condemnation proceedings and inverse condemnation cases. Provide real estate services, including, but not limited to, unlawful detainer, general real estate advice, landlord tenant law, etc. Advise and assist staff in review of property-related documents, including developer agreements, licensees, leases, easements, and deeds. Report to Omnitrans' Board or Board Committees, as necessary.

Requirements:

- a. Commercial Development
- b. Condemnation
- c. Deeds
- d. Eminent Domain
- e. Land Acquisition
- f. Land Use

ATTACHMENT A - SCOPE OF WORK
ADM17-29
GENERAL COUNSEL LEGAL SERVICES

- g. Leases
 - h. Licenses
 - i. Licensees
 - j. Unlawful Detainer
- O. Governance Structure
With the advent of operating and maintaining the Redlands Passenger Rail Project, Consultant shall provide oversight and guidance to Omnitrans and the Board of Directors in restructuring Omnitrans governance through the legislative process that will provide a higher level of protection for Joint Powers Authority (JPA) member agencies, including handling administrative proceedings or litigation, as necessary.
- P. Workers' Compensation
Consultant may be required to perform duties of defending, Omnitrans in all matters, as directed by the Omnitrans Workers' Compensation Administrator pertaining to any aspect of workers' compensation claims from file creation/review through trial. Provide defense against California Labor Code 132(a) claims. Report to Omnitrans' Board or Board Committees, as necessary.

3. MINIMUM QUALIFICATIONS

Consultant must be able to demonstrate expertise in each of the following legal services areas (this list not intended to be exhaustive):

- A. Attorneys who are active members in good standing with the State Bar of California.
- B. Assigned attorneys must have a minimum of five (5) non-aggregated years of exhibited satisfactory experience in providing the services required by a California public transit authority or public agency.
- C. A minimum of five (5) years of experience in handling employment discrimination and wrongful termination matters before the California Superior Courts and United States District Courts.
- D. Firms must disclose and explain to Omnitrans' satisfaction if Firm has any pending litigation, either civil or criminal, including complaints or actions by any regulatory agencies with jurisdiction over the firms' work, in which Proposer, any of its partners, members or employees (non-clerical) is or has been involved within the last seven (7) years.
- E. Attorney(s) shall be familiar with 49 U.S.C. Section 5333 [Section 13(c) of the Federal Transit Act] and have experience handling matters before the United States Department of Labor involving Section 13(c) protective arrangements and handling litigation involving Section 13(c) disputes.
- F. Attorney(s) should have experience in collective bargaining, preferably in the public transportation industry.

ATTACHMENT A - SCOPE OF WORK
ADM17-29
GENERAL COUNSEL LEGAL SERVICES

- G. Attorney(s) should have experience handling grievance arbitrations under a collective bargaining agreement and interest arbitrations under a Section 13(c) agreement.
- H. Attorney(s) should have experience handling administrative agency matters, such as safety matters before Cal/OSHA, and wage and hour matters before the U.S. Department of Labor and the California Labor Commissioner.
- I. Attorney(s) should have experience advising companies in the field of labor and employment law, preferably in the public transportation industry.
- J. Attorney(s) should have at least five (5) years of experience in handling employment discrimination and wrongful termination matters before the California Superior Courts and United States District Courts.
- K. Public transit, self-insured defense experience preferred.
- L. Minimum five (5) years' experience practicing civil tort defense in California representing public agencies and a minimum of three (3) civil tort defense jury trials to verdict in the last five (5) years representing public agencies.
- M. Five (5) years California workers' compensation defense for self-insured employers and related subrogation proceedings and recoveries.
- N. Consultant and assigned staff must be capable to provide railroad legal services and have experience in performing work relating to railroad operating law.

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 permit any of the foregoing parties to reproduce without any cost by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- E. Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case Contractor agrees to maintain same until Omnitrans, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

RR-06**FEDERAL FUNDING, INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS, AND FEDERAL CHANGES*****A. Applicability**

This Article applies to all federally funded contracts.

- B. This Contract includes, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the Contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008 and

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>

TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS *

A. Applicability

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

B. General Transit Employee Protective Requirements

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

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

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

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

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

Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

E. Indemnity

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

**RR-23
BONDING REQUIREMENTS**

Applicability to Contracts

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

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

**RR-24
DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS**

Background and Application

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

incorporated into a single clause (*see* 29 CFR 3.11) enumerated at 29 CFR 5.5(a) and reproduced below.

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

Clause Language

Davis-Bacon and Copeland Anti-Kickback Acts

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or

indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

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

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

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

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

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

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

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

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

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

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

be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

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

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

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

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

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

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

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PRIVACY ACT - 5 U.S.C. 552

Applicability to Contracts

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

Flow Down

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

Model Clause/Language

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

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

- (1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974,

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

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

Applicability to Contracts

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

Flow Down

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

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

notice of termination will state the time period in which cure is permitted and other appropriate conditions

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

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

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

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

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

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

Applicability to Contracts

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

Flow Down

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

Model Clauses/Language

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

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

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

Applicability to Contracts

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

Flow Down

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

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the Omnitrans Construction Manager.

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 of damage.

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

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

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VETERANS PREFERENCE

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

END OF REGULATORY REQUIREMENTS

ATTACHMENT C - PRICING
ADM17-29
GENERAL COUNSEL LEGAL SERVICES

HOURLY RATE	
FULLY BURDENED HOURLY RATES*	
1) Partners & Of Counsel – Basic General Counsel Services	\$ 245.00 Per Hour
2) Associates – Basic General Counsel Services	\$ 245.00 Per Hour
3) Paralegals – Basic General Counsel Services	\$ 140.00 Per Hour
4) Partners & Of Counsel – Specialized General Counsel Services	\$ 280.00 Per Hour
5) Associates – Specialized General Counsel Services	\$ 245.00 Per Hour
6) Paralegals – Specialized General Counsel Services	\$ 150.00 Per Hour

*Fully burdened hourly rates shall remain fixed for the first two (2) years. All subsequent year pricing shall be determined in January of each year using the change (increase or decrease) of Consumer Price Index (CPI).

ITEM # _____ F4

DATE: January 4, 2017

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

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Jennifer M. Sims, Director of Procurement

**SUBJECT: AUTHORIZE AWARD – CONTRACT MNT17-59
TWENTY-THREE AMERICANS WITH DISABILITIES ACT CERTIFIED
PARATRANSIT VEHICLES**

FORM MOTION

Authorize the CEO/General Manager to award Contract MNT17-59 to Creative Bus Sales (CBS) of Chino, CA, for the provision of twenty-three (23) Compressed Natural Gas (CNG) Americans with Disabilities Act (ADA) certified paratransit vehicles in an amount of \$2,349,488 plus a 3.27% Cost Allocation Plan of \$76,828, for a total not-to-exceed amount of \$2,426,316.

BACKGROUND

On January 15, 2014, the Federal Transit Administration (FTA) determined that its grantees in the State of California may continue to use contracts issued by the CalACT/Morongo Basin Transit Authority (MBTA) Purchasing Cooperative. Staff followed the procedures using the CalACT Local Government Purchasing Schedule.

Omnitrans received the letter of assignment from CalACT/MBTA to participate in the state's competitively bid contract for ADA-certified Paratransit Vehicles to purchase twenty-three (23) CNG paratransit vehicles. These vehicles will replace paratransit vehicles which have exceeded their useful life mileage of 200,000 miles. The selected model is the same model as the majority of Omnitrans' paratransit fleet.

Omnitrans requested and reviewed quotes from CBS and A-Z Bus Sales. Listed below is purchase price:

Company	Total
Creative Bus Sales	\$2,349,488
A-Z Bus Sales	\$2,600,885

*Pricing inclusive of all direct and indirect costs.

Award is recommended to the lowest, responsive and responsible company, CBS. Price is deemed fair and reasonable as CBS's quote of \$2,349,488 is \$251,397 less than the A-Z Bus Sales quote of \$2,600,885. CBS is a local vendor based out of Chino.

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 Capital budget as follows:

FUNDING	GRANT #	YEAR	PROJECT NAME	INTERNAL ORDER	AMOUNT
FTA	CA-90-Y850	2011	Access Vehicles	A1120401F	\$ 1,334.53
FTA	CA-90-Y939	2012	Access Vehicles	A1220401F	\$ 220,033.10
FTA	CA-90-Z112	2014	Access Vehicles	A1420401F	\$ 961,263.24
FTA	CA-90-Z280	2015	Access Vehicles	A1520411F	\$ 758,421.94
Prop 1B	Prop 1B	2014	Access Vehicles	A1420411B	\$ 250,170.76
Prop 1B	Prop 1B	2015	Access Vehicles	A1520401B	\$ 204,867.53
STA	11-03-OMN-B	2011	Access Vehicles	A1120401S	\$ 333.95
STA	08-06-OMN-B	2008	Access Vehicles	A08CA402S	\$ 2,345.71
STA	07-05-OMNB	2007	Access Vehicles	A0720401S	\$ 5,244.05
STA	10-09-OMN-B	2012	Access Vehicles	A1220401S	\$ 22,301.20
TOTAL					\$ 2,426,316

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

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

CONCLUSION

By proceeding with this award, Omnitrans will replace high mileage ADA certified paratransit vehicles with new CNG paratransit vehicles.

PSG:JMS:KT