



BOARD OF DIRECTORS MEETING
WEDNESDAY, JANUARY 9, 2013 – 8:00 A.M.
OMNITRANS METRO FACILITY
1700 WEST 5TH STREET
SAN BERNARDINO, CA 92411

The Board of Directors meeting facility is accessible to persons with disabilities. If assistive listening devices or other auxiliary aids or services are needed in order to participate in the public meeting, requests should be made through the Recording Secretary at least three (3) business days prior to the Board Meeting. The Recording Secretary's telephone number is 909-379-7110 (voice) or 909-384-9351 (TTY), located at 1700 West Fifth Street, San Bernardino, California.

A. CALL TO ORDER

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

B. ANNOUNCEMENTS/PRESENTATIONS

1. Next Board Meeting: Wednesday, February 6, 2013, at 8:00 a.m.
Omnitrans Metro Facility Board Room

C. COMMUNICATIONS FROM THE PUBLIC

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

D. POSSIBLE CONFLICT OF INTEREST ISSUES

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

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E. CONSENT CALENDAR

The following items are expected to be routine and non-controversial. The Board will act upon them at one time without discussion, unless the Board directs that an item be held for further discussion under Agenda Item F, Discussion Items. Any person wishing to address consent items should address the Board under Agenda Item E-15, Action on Consent Calendar.

1. Approve Board Minutes – December 5, 2012
2. Receive & File Administrative & Finance Committee Minutes – November 13, 2012
3. Receive & File Agency Management Report – November 2012
4. Claims Filed Against Omnitrans – Information Item Only
5. Receive and File Construction Progress Report No. 12 through November 2012, sbX E Street Corridor BRT Project

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BOARD OF DIRECTORS MEETING
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E. CONSENT CALENDAR CONTINUED

6. Receive and File Forward Fuel Purchase Quarterly Report, July through December 2012	41
7. Receive and File Fiscal Year Ended June 30, 2012 Audit Reports	57
8. Approve Budget Assumptions for Preparing Fiscal Year 2013-2014 Budget	59
9. Adopt Resolution No. 262-13 Authorizing Destruction of Records	61
10. Authorize Change Order No. 16, PLN08-1, Design Consulting Services – sbX E Street Corridor Bus Rapid Transit Construction Project	66
11. Authorize Award of Contract PLN13-03, Alternatives Analysis of Route 61 Corridor	84
12. Authorize Disposal of Surplus Vehicles by Auction	135
13. Authorize Award of Contract MNT13-37, Pest Control Services	138
14. Press Articles and Letters of Interest to the Board	148
15. Action on Consent Calendar	

F. DISCUSSION ITEMS

The following items do not legally require any public testimony, although the Chair may open the meeting for public input.

1. CEO/General Manager's Report	152
2. Authorize Award of Contract MNT13-15, Bus Painting and Wrapping Services	156
3. Authorize Amendment No. 2, IPMO12-23, Consulting Services – Utility, Scheduling and Environmental Compliance	184
4. Adopt Investment Policy Statement for 2013	188

G. PUBLIC HEARING

There is no scheduled public hearing.

H. BOARD BUSINESS

Closed Session

- Conference with Labor Negotiator, Milo Victoria, concerning labor negotiations with Teamsters Local #166 regarding Maintenance/Administrative Support Unit, pursuant to Government Code Section 54957.6
- Conference with Legal Counsel from Nossaman LLP, Pending Litigation, Government Code Section 54956.9(a) – SANBAG v. F&C Jara Properties Fourth Limited Partnership, et al; San Bernardino County Superior Court Case No. CIVDS 1104964 Parcels B245 and B247

I. REMARKS AND ANNOUNCEMENTS

J. ADJOURNMENT

ITEM # D1
DATE: January 9, 2013

TO: Board Chair Dick Riddell & Members of the Omnitrans Board of Directors

THROUGH: Milo Victoria, CEO/General Manager

FROM: Jennifer 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 9, 2013.

Item No.	Contract	Principals & Agents	Subcontractors
E10	Authorize Change Order No. 16 PLN08-1, Design Consulting Services sbX E Street Corridor Bus Rapid Transit (BRT) Construction Project	Parsons Transportation Group, Inc. Pasadena, CA Aurum Loewenstein, PE Project Manager	Gruen Associates Iteris, Inc. IEG MIG, Inc. AP
E11	Authorize Award of Contract PLN13-03, Alternatives Analysis of Route 61 Corridor	Parsons Transportation Group, Inc. Pasadena, CA David Warnock, PE Vice President	Arellano Associates Cambridge Systematics, Inc. Gruen Associates Iteris, Inc. MIG, Inc.
E12	Authorize Disposal of Surplus Vehicles	Bar None Auctions San Bernardino, CA Don Wood	None
E13	Authorize Award of Contract MNT13-37, Pest Control Services	Antimite Termite & Pest Control San Bernardino, CA Alfonso Serrano, Branch Manager	None
F2	Authorize Award of Contract MNT13-15, Bus Painting and Wrapping Services	SoCal Wraps Fontana, CA Jason Pfutzenreuter, Manager	None
F3	Authorize Amendment No. 2 IPMO12-23, Consulting Services Utility, Scheduling and Environmental Compliance	APSI Construction Management Irvine, CA Atul Apte, CCM, LEED AP Operations Manager	None

ITEM # E1

**BOARD OF DIRECTORS' MEETING
MINUTES
December 5, 2012**

A. CALL TO ORDER

Chair Dick Riddell called the regular meeting of the Omnitrans Board of Directors to order at 8:00 a.m., Wednesday, December 5, 2012, at the Omnitrans Facility located at 1700 West 5th Street, San Bernardino, California.

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

BOARD MEMBERS PRESENT

Mayor Dick Riddell, City of Yucaipa – Chair
Councilmember Alan Wapner, City of Ontario – Vice Chair
Mayor Pete Aguilar, City of Redlands (alternate)
Councilmember Ron Dailey, City of Loma Linda
Mayor Paul Eaton, City of Montclair
Mayor Pro Tem Lee Ann Garcia, City of Grand Terrace
Mayor Pro Tem Frank Gonzales, City of Colton
Supervisor Josie Gonzales, County of San Bernardino
Mayor Ed Graham, City of Chino Hills
Mayor Pro Tem Penny Lilburn, City of Highland
Mayor Pat Morris, City of San Bernardino
Mayor Ray Musser, City of Upland
Councilmember Ed Palmer, City of Rialto
Supervisor James Ramos, County of San Bernardino
Mayor Pro Tem John Roberts, City of Fontana
Supervisor Janice Rutherford, County of San Bernardino
Mayor Pro Tem Sam Spagnolo, City of Rancho Cucamonga
Mayor Dennis Yates, City of Chino

BOARD MEMBERS NOT PRESENT

Supervisor Robert Lovingood, County of San Bernardino
Supervisor Gary Ovitt, County of San Bernardino

OMNITRANS' ADMINISTRATIVE STAFF PRESENT

Milo Victoria, CEO/General Manager
Marge Ewing, Director of Human Resources
Sam Gibbs, Director of Internal Audit Services
Jack Dooley, Director of Maintenance
Rohan Kuruppu, Director of Planning & Development Services
Robert Miller, Chief Financial Officer
Jennifer Sims, Director of Procurement
Don Walker, Director of Finance
Wendy Williams, Director of Marketing
Scott Graham, Director of Operations
William Tsuei, Director of Information Technology
Ray Maldonado, Employee Relations Manager
Milind Joshi, sbX Project Manager
Maurice Mansion, Treasury Manager
Joanne Cook, Contract Administrator
Eugenia Pinheiro, Contracts Manager
Jeremiah Bryant, Service Planning & Scheduling Manager
Christine Van Matre, Contract Administrator
Alesia Atkinson, Contract Administrator
Mark Crosby, Loss Prevention Supervisor
Vicki Osborne, Assistant to CEO/General Manager
Carol Angier, Administrative Secretary

OTHER

Carol Greene, Legal Counsel

B. ANNOUNCEMENTS/PRESENTATIONS

The next regular meeting is scheduled Wednesday, January 9, 2013, at 8:00 a.m.

C. COMMUNICATIONS FROM THE PUBLIC

None.

D. POSSIBLE CONFLICT OF INTEREST ISSUES

None.

E. CONSENT CALENDAR

- 1) Approve Board Minutes – November 7, 2012
- 2) Receive & File Administrative & Finance Committee Minutes – October 9, 2012
- 3) Receive & File Agency Management Report – October 2012
- 4) Claims Filed Against Omnitrans – Information Item Only

- 5) Receive & File Construction Progress Report No. 11 through October 2012, sbX E Street Corridor BRT Project
- 6) Receive and File Purchase Order Terms and Conditions and Standard Contract Template
- 7) Authorize Sole Source Purchase, Annual Software Maintenance Services for SAP Enterprise Resource Planning (ERP) Software for Business Systems
- 8) Authorize Amendment to Master Agreement, SAP Enterprise Resource Planning (ERP) Payroll Module Modification Services
- 9) Press Articles and Letters of Interest to the Board

On motion by Member Morris, seconded by Member Eaton and carried, the Consent Calendar was approved.

F. DISCUSSION ITEMS

- 1) CEO/General Manager's Report

CEO/General Manager Victoria reviewed the CEO/General Manager's Report for October 2012.

- 2) SAP Enterprise Resource Planning (ERP) Enhancement Project

The Board directed staff to provide a matrix of outcomes and timetable on how the four recommendations made by SAP in the Landscape Review will be accomplished, beginning with the January meeting.

M/S/C (Morris/Musser) to (1) receive and file the SAP Landscape Review Report received from SAP America, Inc.; (2) authorize the CEO/General Manager to de-obligate \$613,049 of Federal Transit Administration (FTA) funds, and \$153,262 in Local Transportation Funds (LTF) as shown in the Funding Source section, and re-obligate these funds to Major Software Applications - SAP Enhancement Project; (3) authorize the CEO/General Manager to execute a contract for the SAP Enterprise Resource Planning (ERP) Enhancement Project with SAP America, Inc., New Town Square, PA, in the amount of \$1,522,256, plus a 5% contingency of \$76,112.80, and a Cost Allocation Plan (CAP) of \$52,266.66, for a total not-to-exceed amount of \$1,650,635.46; and (4) authorize the CEO/General Manager to execute a contract for the SAP Enterprise Resource Planning (ERP) Enhancement Project with Ciber, Inc., Greenwood Village, CO, to continue fine tuning the existing SAP solution in the amount of \$243,200, plus a 5% contingency of \$12,160, and a Cost Allocation Plan (CAP) of \$8,350.27, for a total not-to-exceed amount of \$263,710.27.

Members Rutherford and J. Gonzales objected.

- 3) Authorize Award of Revenue Contract MKT13-17, Bus Exterior & Bus Stop Amenities Advertising

M/S/C (Morris/Spagnolo) to authorize the CEO/General Manager to award Contract MKT13-17, Bus Exterior & Bus Stop Amenities Advertising to Lamar Transit Advertising (Lamar) of Salt Lake City, Utah, for the provision of revenue generating advertising services for Omnitrans' Bus Exteriors and Bus Stop Amenities for a two-year (2) base period beginning January 1, 2013, and ending no later than December 31, 2014, and the authority to exercise three one-year options to extend the contract no later than December 31, 2017.

- 4) Authorize Award of Contract SAS13-01, Card Access System Upgrade

M/S/C (Morris/Musser) to authorize the CEO/General Manager to award Contract SAS13-01 to Braughton Construction, Inc., of Rancho Cucamonga, CA, for the provision of a Card Access System Upgrade in the amount of \$1,041,809, plus a ten percent contingency of \$104,181, for a total not-to-exceed amount of \$1,145,990.

- 5) Authorize Award of Contract SAS13-02, Voice-Over Internet Protocol (VOIP) Public Address System

M/S/C (Eaton/Musser) to authorize the CEO/General Manager to award Contract SAS13-02 to Veterans Communication Services, Inc., of Ontario, CA, for the provision of a Voice-Over Internet Protocol (VoIP) Public Address System in the amount of \$357,578, plus a ten percent contingency of \$35,758, for a total not-to-exceed amount of \$393,336.

- 6) Authorize Release of IFB-OPS13-34, Portable Toilets

M/S/C (Yates/Eaton) to authorize the CEO/General Manager to release Invitation for Bids IFB-OPS13-34 for the provision of Portable Toilets for a two (2) year base contract, and one (1) one-year option, starting March 1, 2013, and ending no later than February 28, 2016.

- 7) Authorize Release of IFB-MNT13-14, New Flyer Bus Parts

M/S/C (Yates/Eaton) to authorize the CEO/General Manager to release Invitation for Bids IFB-MNT13-14 for the provision of New Flyer Bus Parts for a three (3) year base contract, and two (2) one-year options, starting February 6, 2013, and ending no later than February 5, 2018.

- 8) Authorize Release of IFB-MNT13-16, Cummins Engine Parts

M/S/C (Yates/Eaton) to authorize the CEO/General Manager to release Invitation for Bids IFB-MNT13-16 for the provision of Cummins Engine Parts for a three (3) year base contract, and two (2) one-year options, starting February 6, 2013, and ending no later than February 5, 2018.

G. CALL FOR PUBLIC HEARING

None

H. BOARD BUSINESS

Closed Session

1. Conference with Labor Negotiator, Milo Victoria, concerning labor negotiations with Teamsters Local #166 regarding Maintenance/Administrative Support Unit, pursuant to Government Code Section 54957.6
2. Conference with Legal Counsel, Pending Litigation, pursuant to Government Code Section 54956.9(c) - Four Cases

The Board adjourned to Closed Session at 8:55 a.m. The Board reconvened at 9:32 a.m. Chair Riddell said no reportable action took place during Closed Session.

I. REMARKS AND ANNOUNCEMENTS

None.

J. ADJOURNMENT

The Board adjourned at 9:33 a.m. The next regular meeting is January 9, 2013, at 8:00 a.m. with location posted on the Omnitrans website and at Omnitrans' San Bernardino Metro Facility.

Carol Angier, Recording Secretary

ITEM # E2

**ADMINISTRATIVE & FINANCE COMMITTEE
MINUTES
November 13, 2012**

The Administrative & Finance Committee meeting was called to order by Chair Alan Wapner at 11:00 a.m. on November 13, 2012.

Committee Members Attending

Councilmember Alan Wapner, City of Ontario, Committee Chair
Mayor Paul Eaton, City of Montclair
Mayor Pro Tem Lee Ann Garcia, City of Grand Terrace
Mayor Pro Tem Frank Gonzales, City of Colton
Mayor Ed Graham, City of Chino Hills
Supervisor Gary Ovitt, County of San Bernardino
Mayor Dick Riddell, City of Yucaipa
Mayor Pro Tem John Roberts, City of Fontana

Committee Members Absent

Mayor Pro Tem Paul Foster, City of Redlands

Omnitrans Staff & Others Attending

Milo Victoria, CEO/General Manager
Wendy Williams, Director of Marketing
Jack Dooley, Director of Maintenance
Sam Gibbs, Director of Internal Audit Services
Jennifer Sims, Director of Procurement
Don Walker, Director of Finance
Ray Lopez, Director of Safety & Security
William Tsuei, Director of Information Technology
Milind Joshi, sbX Program Manager
Casey Dailey, SANBAG
Joy Chadwick, County of San Bernardino
Carol Angier, Administrative Secretary

C. Possible Conflict of Interest Issues

None

D. Agenda Items

1. Approve Administrative & Finance Committee Minutes of October 9, 2012

M/S (Ovitt/Graham) to approve the minutes of the October 9, 2012 Committee meeting. Member Eaton abstained as he was not at last month's meeting. Motion was unanimous by the rest of the members present.

2. Receive & File Construction Progress Report No. 11 through October 2012 – sbX E Street Corridor BRT Project

sbX Project Manager Joshi said construction is now on Hospitality Lane and E Street. The Vehicle Maintenance Facility contract was awarded at the November Board of Directors' meeting, and the Board authorized additional spending authority for the sbX project for \$6.5 million. The sbX construction budget was set at \$191.7 million, and it is estimated that at completion of construction, the project will cost \$182.8 million. A sbX Partnering Session was held on November 5, and the Change Orders caused by delays due to utility issues was discussed. CEO/General Manager Victoria and San Bernardino Mayor Morris will schedule a meeting with the utility companies to discuss getting utilities moved along the construction so not to delay the project further. Many of the utilities have sent their crews back east due to Hurricane Sandy. However, even before the hurricane, the utilities were assigning their crews to other projects rather than sbX. We need to get the project done on time, or we will have to notify the FTA. This will be discussed at the quarterly FTA meeting also.

This was a receive and file agenda item.

3. Receive & File Omnitrans Chief Financial Officer's Report on Forward Fuel Purchases for November 2012

Chief Financial Officer Miller said the spot market for November has trended upwards for the first time. The spot price now exceeds the hedge cost in our contract, which means Omnitrans will now recognize a gain that will reduce the cost of LNG fuel with Clean Energy. Omnitrans has a favorable budget variance in November of \$2,553. To date, Omnitrans has a gain of \$150,000, with a loss of \$85,000. The market is anticipated to continue to gain for the hedged levels.

This was a receive and file agenda item.

4. Adopt Committee Meeting Calendar for 2013

M/S (Graham/Ovitt) to adopt the Administrative & Finance Committee Meeting Calendar for 2013. Meetings are scheduled the second Monday of each month (unless otherwise noted) and begin at 11 a.m. Motion was unanimous by members present.

5. Receive and Recommend to Board of Directors for Receipt and File, Revised Purchase Order Terms and Conditions & Standard Contract Template

Director of Procurement Sims said it has been a while since Omnitrans' standard Purchase Orders terms and conditions have been updated, and there are now more requirements to meet. County Counsel has reviewed and approved the changes presented to the Committee. The standard contract language has been cleaned up to rid conflicting terms and conditions on the current contract language.

M/S (Eaton/Gonzales) to receive and recommend to the Board of Directors for receipt and file the updated Standard Purchase Order Terms and Conditions and Standard Contract Template. Motion was unanimous by members present.

6. Receive and Recommend to Board of Directors for Approval, Purchase of Software Maintenance Services – SAP ERP Software for Business Systems

Director of Information Technology Tsuei said SAP is the sole source for the ERP Software annual maintenance. SAP will update the Finance, Human Resources, and Procurement functions. This is the annual license renewal for SAP. Member Graham asked if SAP would do multi-year license renewal instead of just annual. Director of Information Technology said SAP normally renews their license annually for a fixed price. Chief Financial Officer Miller said SAP is a very large corporation and sees Omnitrans as only a small client. Director of Procurement Sims said she does attempt to negotiate multiple year license renewals with other software vendors, but it is very difficult to do so with SAP. Chair Wapner asked if there were other software vendors that could do the same job as SAP. Director of Information Technology Tsuei said the only other vendor is Oracle, and they would cost approximately the same as SAP.

M/S (Gonzales/Eaton) to recommend approval to the Board of Directors authorizing the CEO/General Manager to issue sole source purchase order to SAP Public Services, Inc., Palo Alto, CA, for the SAP Enterprise Resource Planning (ERP) software maintenance services for the Agency's business systems, beginning January 1, 2013, and ending December 31, 2013, in the amount of \$244,433.99. Motion was unanimous by members present.

Member Graham inquired about the status of the COA. CEO/General Manager Victoria said SANBAG/AECOM are working on corrections for the last report. SANBAG anticipates publishing the final COA by the end of November. Omnitrans' and SANBAG's Board of Directors will then meet to discuss recommendations from the COA in January/February 2013. Chair Wapner said SANBAG's Executive Director had some concerns with the COA that reflected the concerns that Omnitrans had all along. This is why there was a delay in the COA completion. CEO/General Manager Victoria said we want the COA data to be as accurate as possible.

The Administrative & Finance Committee meeting adjourned at 11:21 a.m. The next Administrative & Finance Committee Meeting is scheduled for December 10, 2012, with location posted on the Omnitrans website and at Omnitrans' San Bernardino Metro Facility.

Carol Angier, Recording Secretary

ITEM # E3

AGENCY MANAGEMENT REPORT

November 2012
FISCAL YEAR 2013

Agency Results

Operating Revenue

November total Operating Revenue of \$5,729,509 is 19,283 over budget. Year-to-Date (YTD) Operating Revenue of \$28,444,880 is \$106,248 under budget. The positive monthly variance is driven by Fixed Route 31 day pass revenue coming in higher than planned. The YTD variance is primarily driven by passenger fares being lower than planned. Regular full-fare cash sales are running below plan.

Operating Expense

November Operating Expense of \$5,792,200 is \$20,966 over budget. YTD Operating Expense of \$27,727,507 is \$1,128,663 or 4% under budget. The negative current month variance is driven by allocated labor being lower than planned. The YTD variance is driven by labor, fringe benefits, material and supplies, services and occupancy all coming in under budget.

Ridership

During the month of November, Omnitrans carried a total of 1,352,701 passengers. This consisted of 1,312,902 on Fixed Route service and 39,799 on Demand Response routes. YTD Ridership is 6,979,644, which reflects a total system increase of 2.89% when compared to the same period last year.

Revenue Hours/Revenue Miles

During the month of November, Omnitrans provided a total of 65,298 revenue hours reflecting an increase of 1.9% versus the same period last year. Omnitrans logged a total of 887,211 revenue miles during the month, reflecting an increase of 1.42% when compared to same period last year. YTD Omnitrans provided a total of 335,565 revenue hours reflecting an increase of 1.89% versus the same period last year. Also, YTD Omnitrans logged a total of 4,539,227 revenue miles reflecting an increase of 1.54% when compared to same period last year.

Farebox Recovery Ratio

November farebox revenue for Fixed Route/Omnalink is \$1,189,937 versus \$1,076,400 for the same period last year. This is an increase of 10.55%. The positive variance is driven by pass revenue being higher than planned. The farebox recovery ratio for the month is 25.18%. YTD farebox revenue for Fixed Route/Omnalink is \$5,595,125 versus \$5,508,409 for the same period last year. This is an increase of 1.57%. YTD farebox recovery ratio is 24.83%.

November farebox revenue for Access is \$119,049 versus \$120,787 for the same period last year. This is a decrease of 1.44%. Farebox recovery ratio for the month is 11.64%. YTD farebox revenue for Access is \$639,014 versus \$637,803 for the same period last year. This is an increase of .19%. YTD farebox recovery ratio is 12.71%.

Financials

Total Salaries and Benefits of \$3,465,100 are \$9,671 under budget for the month of November. YTD Salaries and Benefits of \$16,765,306 are \$608,549 or 4% under budget. The positive monthly and YTD variances are primarily driven by headcount being less than planned.

Total Services are \$229,799 or \$29,711 under budget in November. YTD Total Services are \$872,101 or \$425,446 under budget. The positive monthly and YTD variance is principally driven by professional services being less than planned.

Materials and Supplies are \$687,480 or \$114,143 under budget in November. YTD Materials and Supplies are \$3,524,447 or \$483,668 under budget. The current month and YTD variance is principally driven by gasoline and spare parts being less than planned.

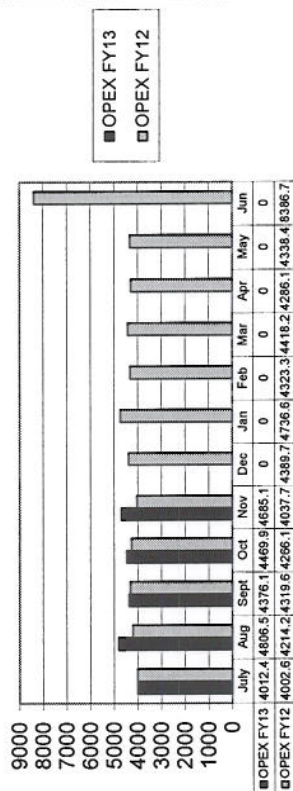
Purchased Transportation is \$716,228 or \$25,120 under budget in November. YTD Purchased Transportation is \$3,760,130 or \$53,388 over budget. The current month positive variance is due to holidays during the month in which service is not provided. The YTD variance is driven by demand being up over the prior year.

Other Expenses are \$693,594 or \$199,611 over budget in November. YTD Other Expenses are \$2,805,523 or \$335,612 over budget. The current month and YTD variance is primarily driven by the IBNR (Incurred But Not Reported) reserve accrual.

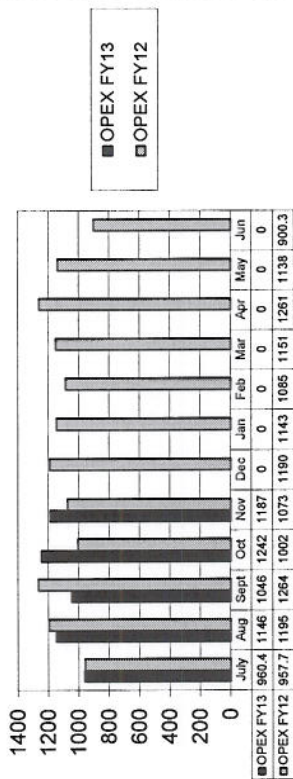
**PERFORMANCE STATISTICS
FISCAL YEAR 2013
November 2012**

	<u>Current Month</u>		<u>YR/YR</u>	<u>Year-To-Date</u>		<u>YR/YR</u>
	<u>November 2013</u>	<u>November 2012</u>	<u>inc/(dec)</u>	<u>November 2013</u>	<u>November 2012</u>	<u>inc/(dec)</u>
Total Passenger Revenue & Subsidy						
Fixed Route	\$1,186,911	\$1,073,089	10.6%	\$5,580,981	\$5,492,071	1.6%
Demand Response	\$122,075	\$124,098	-1.6%	\$653,158	\$654,141	-0.2%
Total Passengers						
Fixed Route	1,312,902	1,302,912	0.8%	6,771,537	6,584,026	2.8%
Demand Response	39,799	38,217	4.1%	208,107	199,262	4.4%
Farebox Recovery Ratio						
Fixed Route/OmniLink	25.18%	26.38%		24.83%	26.17%	
Access	11.64%	12.58%		12.71%	13.15%	
Total Passengers per Revenue Hour						
Fixed Route	26.1	26.3	-0.7%	26.1	26.0	0.6%
Demand Response	2.6	2.6	0.8%	2.7	2.6	3.3%
Revenue per Passenger						
Fixed Route	0.90	0.82	9.8%	0.82	0.83	-1.2%
Demand Response	3.07	3.25	-5.5%	3.14	3.28	-4.4%
Cost per Passenger						
Fixed Route	3.57	3.10	15.2%	3.30	3.17	4.3%
Demand Response	26.74	26.22	2.0%	25.03	25.38	-1.4%
Cost per Revenue Hour						
Fixed Route	93.23	81.55	14.3%	86.31	82.24	4.9%
Demand Response	70.72	68.79	2.8%	67.37	66.14	1.8%
	<u>Actual</u>	<u>Target</u>				
On Time Performance						
Fixed Route	85.27%	90%				
Demand Response	88.65%	90%				
Headcount (includes PT Operators)	625	647				

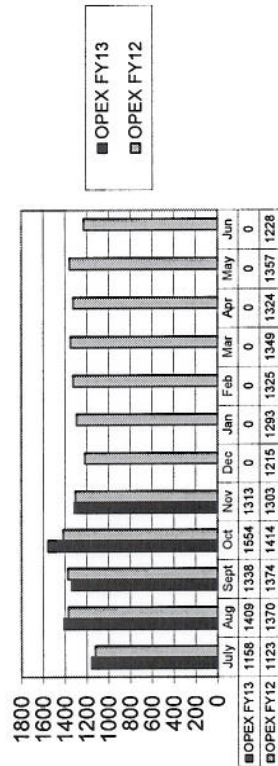
Fixed Route Operating Expense Thousands



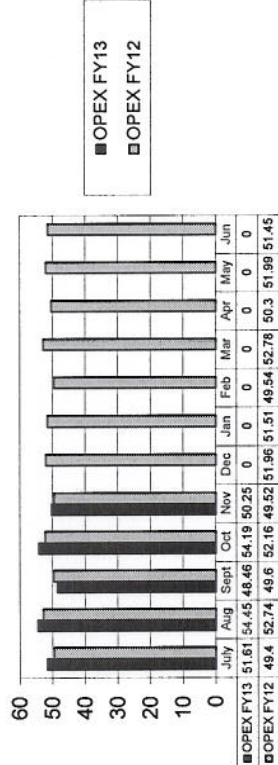
Fixed Route Passenger Revenue Thousands



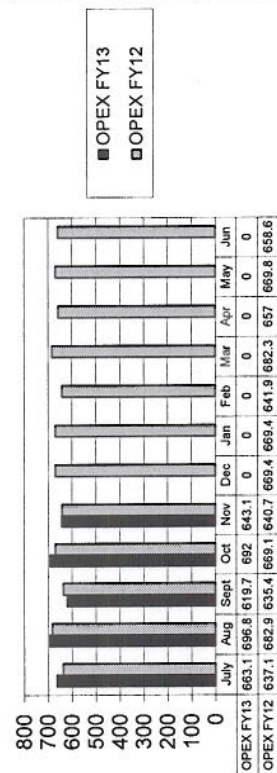
Fixed Route Ridership Thousands



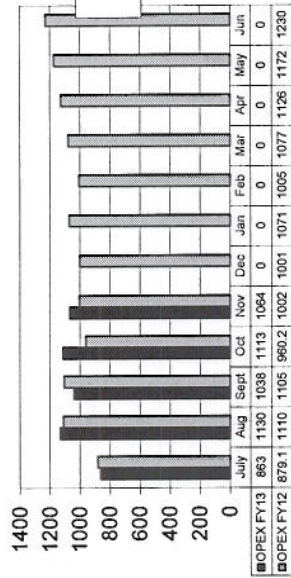
Fixed Route Revenue Hours Thousands



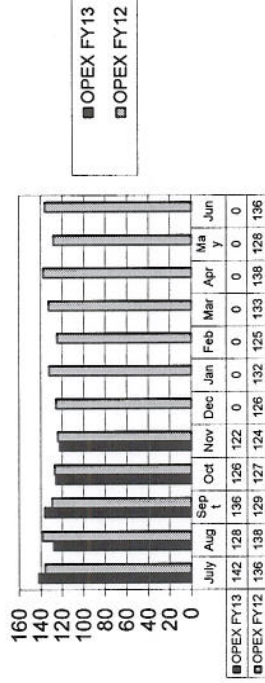
Fixed Route Revenue Miles Thousands



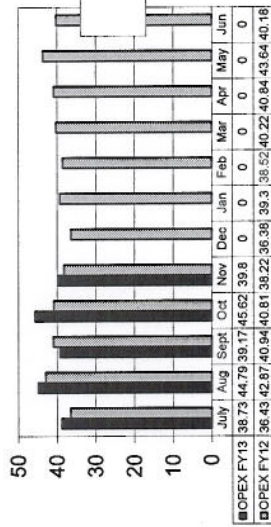
Demand Response Operating Expense Thousands



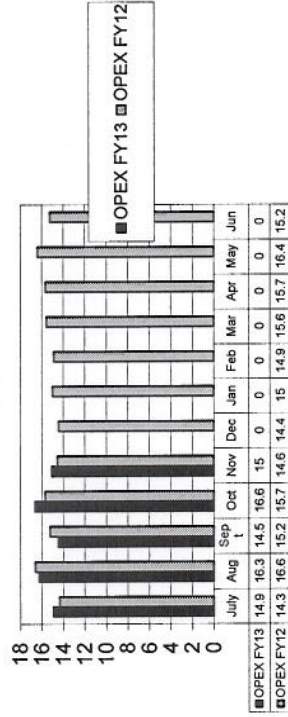
Demand Response Passenger Revenue Thousands



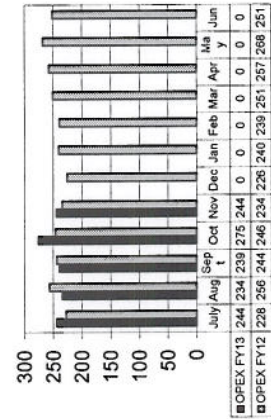
Demand Response Ridership Thousands



Demand Response Revenue Hours Thousands



Demand Response Revenue Miles Thousands



Statement of Operations Fiscal Year: 2013

CURRENT MONTH: November 2012

YEAR-TO-DATE: November 2012

	<u>Actual</u>	<u>Budget</u>	<u>Fav/(Unf)</u>	<u>% of Budget</u>		<u>Actual</u>	<u>Budget</u>	<u>Fav/(Unf)</u>	<u>% of Budget</u>
					<u>Operating Revenues</u>				
	1,281,177	1,249,407	31,771	103%	Passenger Fares	6,090,686	6,247,033	(156,346)	97%
	27,809	27,477	331	101%	Measure I Subsidy - Fares	143,453	137,386	6,066	104%
	376,689	376,689	0	100%	Measure I Subsidy - Operating	1,883,447	1,883,447	0	100%
	48,533	54,167	(5,634)	90%	Auxiliary Transportation Revenue	277,668	270,833	6,835	103%
	(19,906)	2,667	(22,573)	0%	Non-Transportation Revenue	(5,064)	13,333	(18,398)	-38%
	2,825,125	2,825,125	0	100%	LTF Operating	14,125,621	14,125,623	(2)	100%
	68,909	68,909	(0)	100%	STAF Operating	344,546	344,547	(1)	100%
	1,121,173	1,105,785	15,388	101%	Capital Funds for Operations	5,584,523	5,528,926	55,597	101%
	5,729,509	5,710,226	19,283	100%	Total Revenues	28,444,880	28,551,128	(106,248)	100%
					<u>Operating Expenses</u>				
	2,123,580	2,113,168	(10,412)	100%	Labor	10,633,680	10,565,839	(67,842)	101%
	1,341,520	1,361,603	20,083	99%	Fringe Benefits	6,131,626	6,808,016	676,390	90%
	229,799	259,509	29,711	89%	Services	872,101	1,297,547	425,446	67%
	687,480	801,623	114,143	86%	Materials and Supplies	3,524,447	4,008,115	483,668	88%
	145,212	233,903	88,692	62%	Occupancy	932,309	1,169,516	237,207	80%
	427,184	208,998	(218,186)	204%	Casualty and Liability	2,042,574	1,044,988	(997,586)	195%
	104	5,000	4,896	2%	Taxes and Fees	5,366	25,000	19,634	21%
	716,228	741,348	25,120	97%	Purchased Transportation	3,760,130	3,706,742	(53,388)	101%
	52,948	79,050	26,102	67%	Printing and Advertising	155,188	395,250	240,062	39%
	25,144	(75,279)	(100,423)	-33%	Miscellaneous Expense	(498,951)	(376,396)	122,555	133%
	43,002	42,311	(691)	102%	Lease and Rental	169,038	211,554	42,516	80%
	5,792,200	5,771,234	(20,966)	100%	Total Operating Expense	27,727,507	28,856,170	1,128,663	96%
	(62,691)	(61,008)	(1,683)		Net Gain (Net Loss)	717,373	(305,042)	1,022,415	
	3,465,100	3,474,771	9,671	100%	Sal & Ben	16,765,306	17,373,855	608,549	96%
	693,594	493,982	(199,611)	140%	Other	2,805,523	2,469,912	(335,612)	114%

DATE: January 9, 2013

TO: Board Chair Dick Riddell & Members of the Omnitrans Board of Directors

THROUGH: Milo Victoria, CEO/General Manager

FROM: Mae Sung, Accounting Manager

SUBJECT: INVESTMENT STATUS

FORM MOTION

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

BACKGROUND & SUMMARY

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

SUMMARY

All of the Agency's investments are invested with the Local Agency Investment Fund (LAIF) and Union Bank. Please refer to the attachment for the investment activity of the Agency for the month of November 2012. Sufficient funds are available to meet the obligations of the Agency for the next thirty-one days.

MV:MS

OMNITRANS
Treasurer's Report
Month ending November 2012

Institution - Investment Type	Description	Starting Balance	Deposits	Disbursements	Interest Yield	Ending Balance
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Cash and Investments Under the Direction of the Treasurer

Local Agency Investment Fund	\$ 22,099,650.61				0.33%	
			\$ (650,000.00)		0.33%	
			\$ (750,000.00)		0.33%	
			\$ (500,000.00)		0.32%	
			\$ (1,200,000.00)		0.32%	
		\$ 22,099,650.61	\$ (3,100,000.00)			
Net LAIF Funds			\$ 18,999,650.61			\$ 18,999,650.61
Fair Marketing Value	Fair Value Factor			1.001314072		\$ 19,024,617.52
Union Bank Money Market GMRA	\$ 4,334,354.69				0.06%	
	Interest	\$ 204.19	\$ (300,572.20)			
			\$ (300,572.20)			
		\$ 4,334,558.88	\$ 4,033,986.68			
			\$ 4,033,986.68			\$ 4,033,986.68
Citybank Morgan Stanley Futures Account	\$ 307,588.71					
	Gain/Loss for month		\$ (41,987.50)			
		\$ 307,588.71	\$ (41,987.50)			
			\$ 265,601.21			\$ 265,601.21
	\$ 1,049,496.05					
	Passenger	\$ 1,156,674.67				
	Grants' Revenue	\$ 4,140,434.47				
	Miscellaneous Revenue	\$ 126,857.17				
	Transfers From (To) LAIF	\$ 3,100,000.00				
	Transfers From (To) Money Market	\$ 300,572.20				
	Transfers From (To) Morgan Stanley Futures Account					
	Accounts Payable		\$ (6,419,713.90)			
	Payroll and Payroll Taxes		\$ (2,523,209.84)			
	Employee Benefits		\$ (566,757.90)			
	Bank Service Charge		\$ (1,936.12)			
		\$ 9,874,034.56	\$ (9,511,617.76)			
Net Union Bank Operating Funds			\$ 362,416.80			\$ 362,416.80
		\$ 3,400.00				
Petty Cash			\$ 3,400.00			\$ 3,400.00

Cash and Investments Under the Direction of Fiscal Agents

Wachovia Bank N.A.	\$ 75,000.00					
Workmens' Comp. Adjuster						
York Insurance Services						\$ 75,000.00
Total Cash & Investments						\$ 23,765,022.21

I hereby certify that the investment portfolio of OMNITRANS complies with its investment policy and the California Government Code Sections pertaining to the investment of local agency funds and Union Bank of California. Pending any future actions by the Omnitrans Board or any unforeseen catastrophe, OMNITRANS has an adequate cash flow to meet its expenditure requirements for the next six months.

Prepared by: _____
Mae Sung, Accounting Manager

Approved by: _____
Milo Victoria, CEO/General Manager, Treasurer

@ Source of Market Value: California State Pooled Money Investment Board Report.
(1) Union: "Summary of Market Value" posted on monthly fiscal agent statements.
(2) LAIF: "Pooled Money Investment Account Market Valuation".
Master Control Account is the controlling account for all the zero balance accounts with Union including: Accounts Payable Account (General Account) and Payroll Account.
Interest earned by the Master Control account is used as a partial offset to the monthly bank service charges.

DATE: January 9, 2013

TO: Board Chair Dick Riddell & Members of the Omnitrans Board of Directors

FROM: Milo Victoria, CEO/General Manager

SUBJECT: PAYROLLS AND WARRANTS FOR NOVEMBER 2012

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

Payroll Period	Amount	Register #
10/31/12-11/13/12	\$369,563.96	23
11/14/12-11/27/12	\$325,352.21	24

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

Payroll Period	Amount	Register #
10/22/12-11/04/12	\$854,361.51	23
11/05/12-11/18/12	\$899,220.26	24

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

Register Date	Amount	Register #
11/01/2012	\$3,588,283.51	588-589
11/08/2012	\$850,930.26	590
11/15/2012	\$412,095.67	591
11/29/2012	\$1,568,404.46	592

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

MV:ms

ITEM # E4

DATE: January 9, 2013

TO: Board Chair Dick Riddell & Members of the Omnitrans Board of Directors

FROM: Milo Victoria, CEO/General Manager

SUBJECT: CLAIMS FILED AGAINST OMNITRANS FOR DECEMBER 2012 – INFORMATION ITEM ONLY

CLAIMANT	DATE OF LOSS	CLAIM NUMBER
Carbajal, Victor	09/13/12	CLPA10818A1
Cypress Park Homeowner Association	10/12/12	CLPA10820A2
Empire Maytag	07/01/12	CLPA10806B2
Marquez, Carmen	11/13/12	CLPA10832A2
Stoltz, Virginia	10/30/12	CLPA10833A1
Straw, Cathryn	11/14/12	CLPA10819A1
Thomas, Elroy	11/30/12	CLPA10828A2
Valdivia, Christina	09/13/12	CLPA10818B1

<u>Summary of Accidents</u>	<u>No. of Claimants</u>
Injury Inside Coach	3
Injury Boarding Coach	1
Coach/Vehicle Accident	2
sbX Claim	1
Property Damage	1

For the Claims Above:

20% of claims were filed 1 to 5 days after the incident.

10% of claims were filed 6 to 10 days after the incident.

70% of claims were filed 11 or more days after the incident.

/ca

ITEM # E5

DATE: January 9, 2013

TO: Board Chair Dick Riddell & Members of the Omnitrans Board of Directors

THROUGH: Milo Victoria, CEO/General Manager

FROM: Milind Joshi, sbX Program Manager

**SUBJECT: CONSTRUCTION PROGRESS REPORT NO. 12 THROUGH
NOVEMBER 2012 - sbX E STREET CORRIDOR BRT PROJECT**

FORM MOTION

Receive and file Construction Progress Report No. 12 for the sbX E Street Corridor BRT Project through November 2012.

This item was reviewed by the Administrative & Finance Committee at its December 10, 2012, meeting and recommended to the Board of Directors for receipt and file.

BACKGROUND & SUMMARY

This is Construction Progress Report No. 12 for the sbX E Street Corridor Project.

CONCLUSION

Receive and file the Construction Progress Report No. 12 for the sbX E Street Corridor BRT Project through November 2012.

MV:MJ

Attachment



E-STREET CORRIDOR BRT Project

sbX E Street Corridor Bus Rapid Transit (BRT) Project

Construction Progress Report No. 12

Month Ending: November 2012

Submitted By:

JACOBS

Contractor:	Griffith/Comet
Contractor Contract No.:	IPMO11-5
Project Manager:	Joe Jenkins, P.E.
Resident Engineer	Karim Varshochi, P.E. (Corridor)
Resident Engineer	Gary Plunkett, P.E. (VMF)
Omnitrans Construction Manager:	Bart Hayashi, P.E.



PROJECT SUMMARY

sbX Corridor

As of November 21, 2012, the Sbx project is 33% complete with 336 out of 730 calendar days completed.

Weekly meetings with the City of San Bernardino, monthly communication meeting, and various outreach programs providing advance notification of the construction schedule, resolving minor issues, and providing safety awareness to the public have all continued through November.

Weekly Quality Assurance inspections of the steel fabrication and galvanizing shops in Arizona continue as manufacturing of the canopy steel for the stations progress.

Tree planting and irrigation installation were completed on the north side of Hospitality Lane, as the sidewalk and driveway placement at the previous utility conflict locations continued (in the areas of Hospitality Lane/Commercentre Dr and E Street/ Orange Show Rd). Traffic signal foundations, poles, and mast arms were also completed on the westbound portion of Hospitality Lane.

The majority of the curb and gutter grading was completed on the west side of E Street between 2nd and 6th Streets. Layout and saw cutting for the center running lanes from Rialto Ave. to Hospitality Lane.

Marshall Park-N-Ride Stations were paved; the Kendall/Palm and Marshall Park-N-Ride parking lot lights have been erected; Canopy steel was erected on southbound Baseline and Northbound Highland.

Vehicle Maintenance Facility

The contract for the vehicle maintenance facility (VMF) was awarded to USS Cal Builders Inc. in the amount of \$10,672,049.09, plus a five percent contingency of \$533,602.45 and Cost Allocation Plan (CAP) of \$366,424.80 for a total no-to-exceed amount of \$11,572,076.35.

The pre-construction meeting for the VMF was held on November 20, 2012.

DECEMBER WORK

sbX

In December, the sbX contractor will continue the removal of trees, concrete, and asphalt on the south side Hospitality Lane; will begin moving water services, fire hydrants, fire protection services and place new traffic signal foundations.

On E Street from Rialto Ave. to Hospitality Lane, the Contractor will begin removal of asphalt for dedicated center bus line.

At Kendall/Palm, the contractor will prepare the parking lot planter for installation of landscape and irrigation; at CSUSB, installation of platform pavers and the irrigation

system for landscape; and at Marshall, the parking lot lighting solar system, the low wall for platforms will be completed.

VMF

In December, the Contractor will begin mobilizing to site, conduct surveying and layout, and begin trenching for the new lighting system for the bus parking area.

The first partnering session will also take place.

CONCERNS

Project progress has been slower than anticipated due to several issues;

1. Utilities – The easement and final location necessary for the relocation of the Verizon cross connect on Hospitality Lane, west of Hunts Lane, still has not been obtained. The CM is currently executing a work-around plan for the temporary relocation of the cross-connect until such time an easement is obtained.

Cross-connections have typically taken two to three months for permanent relocation; a temporary relocation can be completed within two weeks and will alleviate traffic control issues that may rise during the two to three month period of the permanent relocation. This work-around plan will ensure that traffic control can be maintained at this location with minimal effect to the local business during construction on the south side of Hospitality Lane.

2. Utilities – At E Street and Orange Show Road – three Edison vaults need to be relocated. The Omnitrans CM team is currently awaiting Edison crew schedule and outage. It is anticipated that Edison will not be able to begin work in this area until mid-December.

CM has initiated work-around plan consisting of paving around existing utilities and restriping road to original configuration.

3. City Issues – Still awaiting comments for submittal of the street signs. The City has been in possession of this submittal
4. Change Orders – The numerous Change Orders due to unforeseen conditions, as well as, the Change Order process as a whole are increasing cost and may increase time to the project causing a schedule slip which will inadvertently effect the substantial completion date, testing and revenue dates.

The CM and the Contractor are working diligently to maintain the project schedule by removing moratoriums and adding extra work shifts and initiated work around plans to minimize schedule delays.

SCHEDULE

The baseline schedule was approved and scheduled have been updated through June.

A global update from July through October was submitted by the Contractor on November 16, 2012. The CM team is currently reviewing the submittal and will be providing comments back to the Contractor by November 30, 2012.

The CM (Jacobs) as-built schedule has been updated through October 30, 2012 and is currently showing a substantial completion date of March 3, 2014.

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

RFIS AND SUBMITTALS

Per contract response time for submittals is 25 days and 15 days for RFIs.

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

Total RFIs – 564	Total Submittals – 491
Total Open – 33	Total Open – 10

Weekly RFI meetings are held every Tuesday morning.

SAFETY

As of November 20, 2012 there are 119,059.20 “no-lost time” hours.

NON-CONFORMANCE REPORTS (NCRs)

A total of (11) NCRs have been issued, of which (8) have been closed and (3) are in the process of being corrected.

Weekly NCR meetings are held every Thursday morning.

TOTAL PROGRAM BUDGET

Approved Budget \$191,706,000
 Cost to Date \$64,444,706
 Estimate to Complete \$117,811,991
 Estimate at Completion \$182,256,697

PROJECT COSTS

	CURRENT AUTHORIZED OCTOBER 30, 2012	CURRENT INVOICED OCTOBER 30, 2012	REMAINING OCTOBER 30, 2012
Jacobs	\$5,716,965	\$3,817,349	\$1,899,616
Parsons	\$16,461,791	\$16,191,151	\$270,640
	CURRENT AUTHORIZED SEPTEMBER 30, 2012	CURRENT INVOICED SEPTEMBER 30, 2012	REMAINING SEPTEMBER 30, 2012
GRIFFITH/COMET	\$70,905,098	\$20,384,571	\$50,520,527
	\$93,083,854	\$40,393,071	\$52,690,783

CONTRACT TIME

Activity	Days	Date
Notice to Proceed		11/21/11
Calendar Days per Original Contract	730	
Original Completion Date		12/21/13
Calendar Days Completed as of 21 November 2012	336	
CCO Time Extension to Date	0	
Required Completion Date as of 21 November 2012	394	12/21/13
Forecasted Completion Date as of 21 November 2012		TBD*
Percent Time Elapsed	46.02%	

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

CONTRACTOR COST – SEPTEMBER PAYMENT REQUEST

	Project Cost
Original Contract Amount	\$65,007,603.05
Total Authorization to Date as of month ending September 2012	\$70,905,098.45
Contract Items as of month ending September 2012	\$2,037,330.14
CCO's Paid as of month ending September 2012	\$5,897,495.40
Amount Earned as of month ending September 2012	\$20,384,571.35
Retention Held as of month ending September 2012	\$2,038,457.14
Percent Complete (% paid) as of month ending September 2012	28.75%

DBE

DBE Contract Amount as of month ending September 2012	\$6,522,536.89
DBE Paid to Date as of month ending September 2012	\$1,553,669.76
DBE Contract Goal	9.15%
DBE Percentage of Total Earned to Date as of month ending September 2012	7.62%

CONTRACT CHANGE ORDERS

CCO	Description	Negotiated Cost
1	Water Meter and Fire Hydrant Connections to the Main	\$2,594,555.00
2	Additional Insurance Requirements, prepared and processing	\$214,364.64
3	Electrical Service Modifications for Street Lights; prepared and processing	\$433,500.00
4	Modifications to Project Signs	\$3,519.69
5	Requirement for Additional Emergency Vehicle Pre-emption (EVP) & Civil Modifications	\$455,553.60
6	Partnering Supplies	\$7,936.87
7	Additional Traffic Signal Requirements	\$59,477.00
8	No Cost Change Orders Including CORs 10, 10A, 11, 13, 16, and 48	\$0
9	Increase in Artist Costs, In Plain Sight	\$3,187.24
10	Out of Sequence Pours Due to Existing Unforeseen Obstructions	\$381,042.00
11	Revised Payment Section Along E Street from 10 th to 2 nd Street	\$721,519.44
12	Install Cross Gutter at E Street and Victoria	\$48,665.19
13	Fire Sprinkler System Restart	\$130,000.00
14	Walkway at Cocos' Restaurant along Hospitality Station	\$24,775.37
15	G&M Oil Gas Station Civil Modifications: SCE & Verizon Service Connection Revisions	\$929,399.36
16	E Street/North Mall Way bay taper & median removal	\$27,413.51
17	Union Street Removal Limits & Culvert Modifications	\$24,900.53
18	Kendall at Palm Local Bus Stations - Part 1 – Civil	\$52,162.27
19	0"-18" Retaining Curb	\$68,537.46
20	Modify Driveway Approaches to Meet Grade	\$96,444.00
21	Kendall/Palm Grade Revisions to Meet ADA	\$28,060.67
22	Expedite Driveway and Match Pavers Hospitality STA 698+20	\$20,688.77
23	Route 2 Bus Stop Revision at 9th & E	\$32,929.97
24	Revised Conduit due to SCE Vault at N. Mall Way	\$18,816.21

CCO	Description	Negotiated Cost
25	Remove and Relocate Conflicting Traffic Signal Foundation 8th & E	\$6,434.48
26	Removal of Additional Concrete	\$38,505.36
27	Revised Concrete Footing for Kendall / Little Mtn. N. Station	\$7,676.97
28	4000 PSI Concrete in Lieu of 2500 PSI - Bid item 163	\$39,552.50
29	Graded Channel at North End of Kendall / Palm	\$51,042.18
30	Moifications to Drainage Plan at South End of Kendall / Palm Park n Ride	\$55,133.04
31	Concrete V-Ditch with Splash Walls along West Side of Kendall / Palm Station Platform	\$27,123.69
32	Allowance to Meet Time Sensitive Field Changes	\$400,000.00
33	Increase Size of Catch Basin at E & N. Mall Way	\$3,941.87
34	New Cabinet at E & Orange Show; Additional Conduit at CSUSB	\$83,494.82
TOTAL		\$7,090,353.70

***Change Orders are updated through November 21, 2012.**

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

**POTENTIAL CHANGE ORDERS/CHANGE ORDER REQUESTS
Costs as of November 21, 2012.**

COR	Description	*Estimated Cost	Status
2	Permit Plan Changes, Delta 1A, additional changes	\$150,000	JV preparing cost proposal
9	Caltrans Kendall/Palm Encroachment Permit	\$50,000	Awaiting further information
15	Electrical Plan Changes	\$80,000	JV preparing cost proposal
21	Flow line modifications at Benton, Prospect, Anderson & Redlands stations	\$12,000	Designer preparing scope
26	Redesign of median fountain area at Court Station	\$15,000	Designer preparing scope
27	Kendall at Palm Traffic Signal Revisions	\$10,000	JV preparing cost proposal
28	Kendall at Palm additional local bus station – Part 2 – electrical, landscape, signage and striping additions	\$40,000	Designer preparing scope
29	Gage Canal Changes	\$10,000	Designer preparing scope
30	Bus Stop No. 2 Revisions	\$120,000	Designer preparing scope
36	Flow line modifications to Hospitality at Tippecanoe, Hospitality at Carnegie, Kendall at Little Mountain and the CSUSB stations	\$48,000	JV preparing cost proposal
38	Modified Utility Plans Showing Vaults to be Replaced and water Meter As-Builts	\$2,500,000	JV to revise and resubmit cost as a result of first negotiation meeting 09/10/2012
40	Curb Ramp at Northwest Corner of E Street & Rialto	\$20,000	Designer preparing scope
41	Change sbX Traffic Signal Heads from PV to LRT	\$5,000	JV preparing cost proposal
43	Increase in Bid Quantities	\$50,000	JV providing back-up.
47	Replace Driveway Approach at B251	\$10,000	Designer preparing scope
52	Gas Station at NW Corner of E Street & Orange Show Road (Auto Center Drive)	\$100,000	JV preparing cost proposal
54	Revised Architectural Drawings	\$10,000	JV to confirm no cost change

COR	Description	*Estimated Cost	Status
57	Steel Plate Rentals	\$10,000	JV tracking T & M
58	Trees Substitutions and Replacements	\$25,000	JV preparing cost proposal
61	New Cabinet at E & E Orange Show; Additional Conduit at CSUB	\$85,000	Sent to Omnitrans for approval on 09/14/2012
63	Irrigation Revisions Due to Meter Size Revisions at SBX Stations	\$40,000	Parsons preparing scope
64	Irrigation Revisions at CSUSB Station Due to CSUSB Irrigation Requests	\$15,000	JV preparing cost proposal
66	Brick Pavers at Driveway STA 694+50	\$15,000	Proposal under review
68	Demolition of Home on Southeast Corner of Hospitality and Tippecanoe	\$35,000	Parsons preparing scope
69	Paver over Platform Electrical Junction Box	\$50,000	JV preparing cost proposal
70	Additional Survey Monuments	\$90,000	City of SB to provide scope
75	Sewer Line Repair along E Street from 10 th to 2 nd Street	\$75,000	City of SB to plans.
76	Slope on West Side of E Street at Hospitality Lane (STA 672+69 to 676+00)	\$100,000	JV preparing cost proposal.
78	Clear & Grub Remobilization at Hospitality and Carnegie West	\$20,000	Parsons preparing scope
79	Remove Center Median along Hospitality from Carnegie West to Tippecanoe to Expedite Construction	\$170,000	JV preparing cost proposal
80	Addition of New Conduit & Deletion of Red Light Camera System at the NE Corner of Hospitality Lane and Waterman Ave.	\$0	Sent to Omnitrans for approval on 09/14/2012
81	Expedite Paving along Southbound Kendall Dr. Adjacent to Park-n-Ride Stations 102+00 to 111+00	\$15,000	JV preparing cost proposal
83	Eliminate Solar Panels on Station Canopies	\$0	Parsons preparing scope

COR	Description	*Estimated Cost	Status
84	Surface Mount 6"-15" Type A Retaining Curb on the Northeast Corner of 9 th and E Streets	\$15,000	JV preparing cost proposal
85	Modification to Handrail Height to Meet ADA Requirements	\$0	JV to confirm no cost/ no time impact
86	Demolition and Reconstruction of Parkway Culverts along Northside	\$20,000	Parsons to respond to RFI 401
87	Relocate Irrigation Controller at NW Corner of Hospitality and Tippecanoe	\$0	Sent to Omnitrans for approval on 10/19/2012
88	Curb Return Elevation Modifications at South Wells Fargo Driveway (Entrance to Costco STA 694+80)	\$6,000	Jacobs preparing COR package
89	Relocate Conflicting Water Facilities Not Shown to be Relocated on Original Contract Drawings at various locations	\$150,000	Jacobs preparing COR package
96	New Service Cabinet at Hospitality and Tippecanoe.	\$3,000	Proposal under review
98	SCE Service to Traffic Signals	\$65,000	Jacobs preparing COR package.
99	Landscape and Irrigation Revisions - North Side of Hospitality from Carnegie West to Carnegie East	\$35,000	JV preparing cost proposal for irrigation revisions.
100	Slope, Irrigation, and Misc. Revisions to North Side of Hospitality from Carnegie West to Carnegie East (STA 662+00 to STA 682+00)	\$50,000	COR Package sent to Omnitrans 11/6/12 at \$48,034.39.
101	Increase to artist glass and paver budget	\$20,000	JV to submit request.
102	Landscape and Irrigation Modifications Hospitality STA 695+00 to 704+00	\$15,000	CM 225 sent to JV 10/19/12 directing portion of work (hedge replacement) on T&M with NTE \$9,332.82. JV providing credit proposal for remaining scope.
103	Pylon Sign Design Changes	\$46,000	Parsons submitted new Jacobs 11/09/12. Jacobs sent COR package to JV 11/20/2012.
104	Temporary Lighting, Removal and Replacement of City Banners, and Installation of Street Name Signs	\$30,000	COR package at \$29,027.15 sent to Omnitrans 11/1/12.
105	World Oil Gas Station Revisions	\$50,000	Parsons preparing scope.

COR	Description	*Estimated Cost	Status
106	Reconfigure handicap ramp on Parcel C14, and replace handicap ramp with stairs on Parcel C12 - North Side Hospitality Between Hunts Lane and Commerce Center Drive West	\$40,000	Parsons preparing scope.
107	Additional Tree Plan Modifications	\$75,000.00	Parsons preparing scope.
108	Station Flowline Revisions to Court, Rialto, North Mall, Hunts, Carnegie, and Tippecanoe	\$60,000.00	Parsons preparing scope.
109	Walkway at Outback Restaurant along Hospitality STA 666+00	\$50,000.00	COR package sent to Omnitrans 11/6/12 at \$45,407.15.
TOTALS		\$4,705,000.00	

* Currently pricing is estimated based on Rough Order of Magnitude pending designer plans or final submittal of pricing by JV.

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

CONSTRUCTION MANAGEMENT COSTS

	Project Cost
Original Contract Amount	\$3,898,769.00
CCO's as of October 30, 2012	\$1,818,196.84
Total Authorization as of October 30, 2012	\$5,716,965.97
Total Billed as of October 30, 2012	\$3,817,349.40
DBE Contract Amount	\$789,333.00
DBE Paid to Date as of October 30, 2012	\$327,959.61
DBE Percentage of Contract	13.80%
DBE Percentage of Total Earned as of October 30, 2012	5.74%
Percent of Budget Expended as of October 30, 2012	66.77%

PROGRESS PHOTOS

1. Little Mountain and Kendall – Excavation for Utility Conduit.



2. Little Mountain – Installation of temporary traffic signal wiring.



3. E Street – Trench by hand traffic signal conduit crossing.



4. Completed Station's canopy steel, (ready for shipping) in the fabrication shop in Arizona.

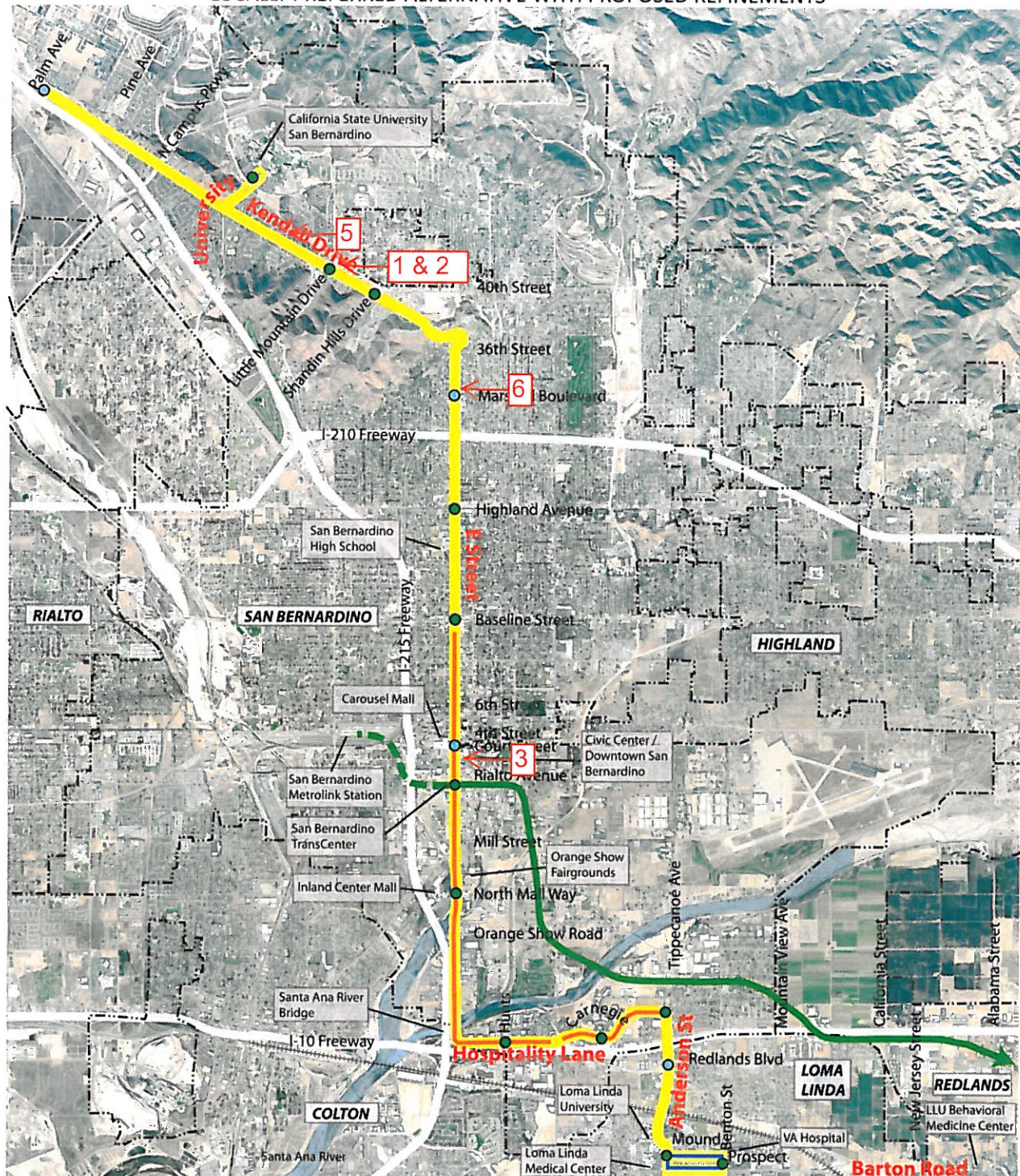


5. Kendall/Palm Park-N-Ride



6. E Street & Marshall Station – Pouring planter walls

LOCALLY PREFERRED ALTERNATIVE WITH PROPOSED REFINEMENTS



REV 07-15-09

- Proposed sbX Alignment (Refined LPA)
- Preliminary Locations of Exclusive Center Lanes
- Potential sbX Stations
- Potential sbX Stations with Park-and-Ride

- City Boundaries
- Proposed Redlands Rail/Metrolink Extension
- Turnaround

13A

**IPMO/sbX Project
Through 10/31/12**

Standard Cost Category (SCC)	Description				Remaining Budget	Estimate to Complete	Estimate at Completion	Budget Forecast Variance
		Current Budget	Expenditures \$	%				
10	GUIDEWAY & TRACK ELEMENTS	14,654,813	3,004,742	20.5%	\$ 11,650,071	\$ 11,650,071	\$ 14,654,813	\$ -
10.02	Guideway: At-grade semi-exclusive (allows cross-traffic)	\$ 12,460,405	2,627,320	21.1%	\$ 9,833,085	\$ 9,833,085	\$ 12,460,405	\$ -
10.03	Guideway: At-grade in mixed traffic	\$ 2,194,408	377,422	17.2%	\$ 1,816,986	\$ 1,816,986	\$ 2,194,408	
20	STATIONS, STOPS, TERMINALS, INTERMODAL	14,258,436	2,578,830	18.1%	\$ 11,679,606	\$ 11,679,606	\$ 14,258,436	\$ -
20.01	At-grade station, stop, shelter, mall, terminal, platform	14,258,436	2,578,830	18.1%	\$ 11,679,606	\$ 11,679,606	\$ 14,258,436	\$ -
30	SUPPORT FACILITIES: YARDS, SHOPS, ADMIN. BLDGS	\$ 11,205,652	-	0.0%	\$ 11,205,652	\$ 12,111,871	\$ 12,111,871	\$ 906,219
30.02	Light Maintenance Facility	\$ 11,205,652	-	0.0%	\$ 11,205,652	\$ 12,111,871	\$ 12,111,871	\$ 906,219
30.05	Yard and Yard Track	\$ -	-	0.0%	\$ -	\$ -	\$ -	\$ -
40	SITEWORK & SPECIAL CONDITIONS	23,788,323	10,399,518	43.7%	\$ 13,388,805	\$ 13,388,805	\$ 23,788,323	\$ -
40.01	Demolition, Clearing, Earthwork	\$ 455,559	257,682	56.6%	\$ 197,877	\$ 197,877	\$ 455,559	\$ -
40.02	Site Utilities, Utility Relocation	\$ 7,514,508	3,597,946	47.9%	\$ 3,916,562	\$ 3,916,562	\$ 7,514,508	\$ 0
40.05	Site structures including retaining walls, sound walls	\$ 72,224		0.0%	\$ 72,224	\$ 72,224	\$ 72,224	\$ -
40.06	Pedestrian / bike access and accommodation, landscaping	\$ 3,803,137	667,885	17.6%	\$ 3,135,252	\$ 3,135,252	\$ 3,803,137	\$ -
40.07	Automobile, bus, van accessways including roads, parking lots	\$ 4,247,947	1,244,215	29.3%	\$ 3,003,732	\$ 3,003,732	\$ 4,247,947	\$ -
40.08	Temporary Facilities and other indirect costs during construction	\$ 7,694,948	4,631,790	60.2%	\$ 3,063,158	\$ 3,063,158	\$ 7,694,948	\$ -
50	SYSTEMS	\$ 20,570,502	5,004,035	24.3%	\$ 15,566,467	\$ 15,566,467	\$ 20,570,502	\$ 0
50.02	Traffic signals and crossing protection	\$ 6,676,502	2,909,595	43.6%	\$ 3,766,907	\$ 3,766,907	\$ 6,676,502	\$ 0
50.05	Communications	\$ 8,294,000	1,605,000	19.4%	\$ 6,689,000	\$ 6,689,000	\$ 8,294,000	\$ -
50.06	Fare collection system and equipment	\$ 5,600,000	489,440	8.7%	\$ 5,110,560	\$ 5,110,560	\$ 5,600,000	\$ -
	Pending Change Orders					\$ 4,905,000	\$ 4,905,000	\$ 4,905,000
	Risk					\$ 10,915,494	\$ 10,915,494	\$ 10,915,494
	Construction Subtotal (10-50)	84,477,726	20,987,125	24.8%	\$ 63,490,601	\$ 80,217,314	\$ 101,204,439	\$ 16,726,713
60	ROW, LAND, EXISTING IMPROVEMENTS	\$ 6,032,000	\$ 5,095,159	84.5%	\$ 936,841	\$ 2,004,106	\$ 7,099,265	\$ 1,067,265
60.01	Purchase or lease of real estate	\$ 5,827,000	5,086,065	87.3%	\$ 740,935	\$ 1,808,200	\$ 6,894,265	\$ 1,067,265
60.02	Relocation of existing households and businesses	\$ 205,000	9,094	4.4%	\$ 195,906	\$ 195,906	\$ 205,000	\$ -
70	VEHICLES	\$ 15,830,545	-	0.0%	\$ 15,830,545	\$ 15,830,545	\$ 15,830,545	\$ -
70.04	Bus	\$ 14,923,497	-	0.0%	\$ 14,923,497	\$ 14,923,497	\$ 14,923,497	\$ -
70.06	Non-revenue vehicles	\$ -	-	0.0%	\$ -	\$ -	\$ -	\$ -
70.07	Spare parts	\$ 907,048	-	0.0%	\$ 907,048	\$ 907,048	\$ 907,048	\$ -
80	PROFESSIONAL SERVICES	52,169,072	38,362,422	73.5%	\$ 13,806,650	\$ 19,760,026	\$ 58,122,448	\$ 5,953,376
80.01	Preliminary Engineering	\$ 12,894,026	12,876,526	99.9%	\$ 17,500	\$ -	\$ 12,876,526	\$ (17,500)
80.02	Final Design	\$ 6,019,829	5,790,068	96.2%	\$ 229,761	\$ 1,630,261	\$ 7,420,329	\$ 1,400,500
80.03	Project Management for Design and Construction	\$ 14,272,701	6,252,935	43.8%	\$ 8,019,766	\$ 8,019,766	\$ 14,272,701	\$ -
80.04	Construction Administration & Management	\$ 5,716,966	3,088,725	54.0%	\$ 2,628,241	\$ 6,548,617	\$ 9,637,342	\$ 3,920,376
80.05	Professional Liability and other Non-Construction Insurance	\$ 500,000	-	0.0%	\$ 500,000	\$ 500,000	\$ 500,000	\$ -
80.06	Legal; Permits; Review Fees by other agencies, cities, etc.	\$ 11,580,550	10,354,168	89.4%	\$ 1,226,382	\$ 1,876,382	\$ 12,230,550	\$ 650,000
80.07	Surveys, Testing, Investigation, Inspection	\$ 464,000	-	0.0%	\$ 464,000	\$ 464,000	\$ 464,000	\$ -
80.08	Start up	\$ 721,000	-	0.0%	\$ 721,000	\$ 721,000	\$ 721,000	\$ -
	Subtotal (10-80)	\$ 158,509,343	\$ 64,444,706	40.7%	\$ 94,064,637	\$ 117,811,991	\$ 182,256,697	\$ 23,747,354
90	UNALLOCATED CONTINGENCY	33,196,657	-	0.0%	\$ 33,196,657	\$ -	\$ -	\$ -
	Subtotal (10-90)	191,706,000	64,444,706	33.6%	\$ 127,261,294	\$ 117,811,991	\$ 182,256,697	\$ (9,449,303)
100	FINANCE CHARGES	-	-	-	\$ -	\$ -	\$ -	\$ -
	TOTAL PROJECT COST (10-100)	191,706,000	64,444,706	33.6%	\$ 127,261,294	\$ 117,811,991	\$ 182,256,697	\$ (9,449,303)

IPMO/sbX Project Cost Report
Period Ended 10/31/12

Description	Current Budget	Expenditure	%	Remaining Budget	Estimate to Complete	Estimate at Completion	Budget Forecast Variance
BRT Construction	72,165,957	20,452,570	24.2%	51,713,387	67,533,881	87,986,451	15,820,494
Vehicle Maintenance Facility (VMF) Construction	11,205,652	-	0.0%	11,205,652	12,111,871	12,111,871	906,219
Vehicles - Design & Manufacturing	15,830,545	-	0.0%	15,830,545	15,830,545	15,830,545	-
ROW Acquisition Services	10,021,135	9,501,764	91.7%	519,371	2,236,636	11,738,400	1,717,265
3rd Party Utilities Design & Relocation	1,106,117	534,555	53.3%	571,562	571,562	1,106,117	-
BRT Design	16,461,791	16,191,151	90.7%	270,640	1,270,640	17,461,791	1,000,000
VMF Design	962,929	703,575	69.8%	259,354	642,354	1,345,929	383,000
Other Professional, Technical & Management Services	30,755,217	17,061,092	50.2%	13,694,125	17,614,501	34,675,593	3,920,376
SUB-TOTAL	158,509,343	64,444,706		94,064,637	117,811,991	182,256,697	23,747,354
Unallocated Contingency	33,196,657	-		33,196,657			
TOTAL	191,706,000	64,444,706	33.6%	127,261,294	117,811,991	182,256,697	(9,449,303)

DATE: January 9, 2013

TO: Board Chair Dick Riddell and Members of the Omnitrans Board of Directors

THROUGH: Milo Victoria, CEO/General Manager

FROM: Robert Miller, Chief Financial Officer

SUBJECT: **OMNITRANS CHIEF FINANCIAL OFFICER'S QUARTERLY
REPORT- FORWARD FUEL PURCHASES THROUGH DECEMBER
2012**

FORM MOTION

Receive and file Omnitrans Chief Financial Officer's Quarterly Report on Forward Fuel purchases for the period of July through December 2012.

SUMMARY AND BACKGROUND

This report is submitted in order to comply with the requirements of the Omnitrans Forward Fuel Purchase Policy and Procedure, which requires that Omnitrans submit, at a minimum, an update to the Board semi-annually. At the request of a Board Member, Omnitrans is reporting the status of the program on a quarterly basis.

This program was implemented on May 6, 2009, to increase the predictability of Omnitrans' LNG fuel costs and reduce operational uncertainty in the event of dramatic fuel price increases in the open market.

A new hedge was established on January 17, 2012; fixing the price of 150,000 gallons of fuel per month for Omnitrans beginning in February 2012 through June 2014. The Board authorized the Agency to participate in the New York Mercantile Exchange (NYMEX) market through Morgan Stanley in order to lower the cost of the hedging transaction itself. This object has been accomplished. Without the structural change, Omnitrans would have paid \$.08 per gallon or \$12,000 per month to hedge 150,000 gallons of fuel. The total cost for the 29 month period would have been \$348,000. Under the Morgan Stanley structure, the Agency incurred costs of \$4,630 to establish the 29 month hedge position. A similar amount will be incurred over the life of the hedge as each monthly position closes. The total transactional cost has been reduced to \$9,260; a savings of \$338,740 for the Agency.

Over the last quarter, the price for natural gas has been increasing as production has moderated somewhat as drilling rigs have shifted over to the production of higher margin shale liquids. The new hedge was established at a price of \$.277 per gallon of LNG. This compares to a price of \$.54 per gallon under the expiring hedge. Because of the favorable market conditions, Omnitrans will be able to reduce its fuel budget for FY 2013 by \$900,000 year over year.

Under the new hedge program, the hedge cost will be averaged over the entire hedge period thereby fixing the per gallon fuel cost for 29 months. In the past, the prices have been averaged over periods coinciding with the Agency's fiscal years. While this will increase the cost during the close in months, the Agency will be able to reduce the volatility of approximately 5% of its annual expenses. This will permit us to minimize our year over year expense growth rate and this will allow us to satisfy the test so we can use STA funding for both capital and operating expenses.

Simple administrative controls have been put in place to make sure the Agency's hedge program is controlled and is consistent with the objectives of the Administrative and Finance Committee and the Board of Directors. An account statement is independently generated nightly by Morgan Stanley. The report is simultaneously distributed to Milo Victoria, Robert Miller and Donald Walker. They are the only individuals authorized to trade the account. Any activity would be highlighted on the statements distributed to the three authorized traders.

Once each month the Agency will use the Morgan Stanley daily statement to record the financial results from the hedge position. The gain or loss on the current contract will be closed against fuel acquired during the month. The gain or loss on the out month contracts will be recorded on the balance sheet as a deferred item. During the current fiscal 2012 annual audit cycle the Agency had an independent firm evaluate the Omnitrans hedge transaction. The purpose of the review was to confirm that the transaction meets the tests necessary to be recognized as efficient. An efficient hedge can be recorded through the monthly financial statements in a way that permits the Agency to accurately record the specific cost elements that pertain to each specific monthly hedge position. The Omnitrans program has been confirmed as meeting the tests to be recorded as efficient.

The following table highlights the information that was presented to the Administrative & Finance Committee for fuel purchases during the first half of Fiscal Year 2013 (July through December).

	6 Mos. Ending Dec 2012
Avg. LNG Spot Market Price from Clean Energy (incl. So Cal Index, Liquefaction, Delivery & Sales Tax)	\$0.8528
Cumm Budget Variance to date FY 2013 Fav <Unfav>	\$55,489
Mo Recognized Gain/<Loss> on Hedge Positions- during the 6 Mos.	<\$18,421>
Gain; <Loss> on out month positions	\$103,938

The final settlement prices for November and December deliveries were above the hedge price. The gain on the hedge position is closed against the monthly fuel purchases thereby reducing the net price of our first 150,000 gallons of fuel to the agreed hedge price.

ADDITIONAL EXHIBITS

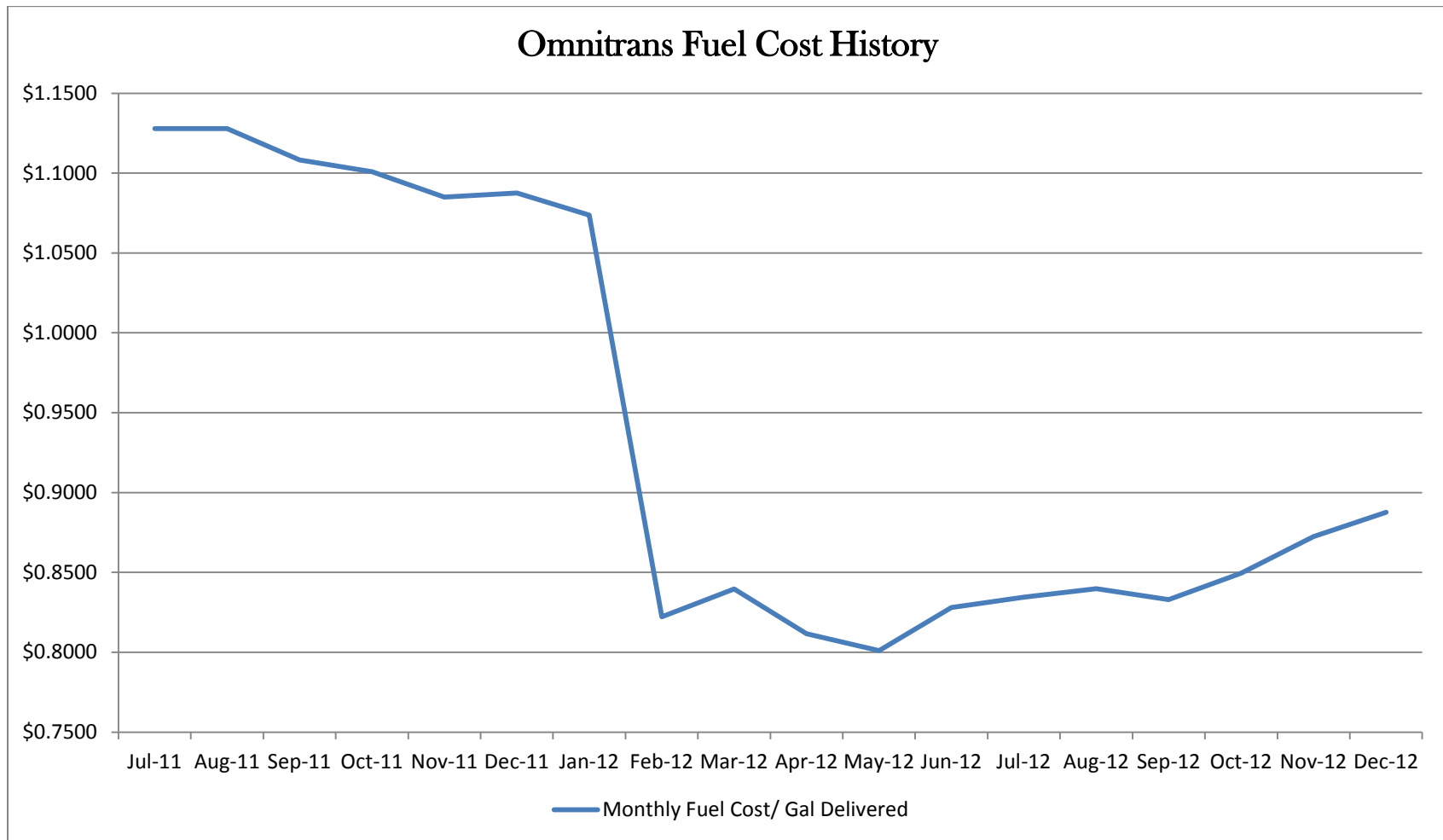
Natural gas transmission has historically been through land based pipeline infrastructure. As a consequence, the market and pricing has been established regionally. The first two charts and the global market graphic highlight natural pricing regionally. Since the early 90's prices in Asia, Europe and North America have been trading in a range with the prices moving more or less together on trend. The difference in the regional markets rarely exceeded a 2X multiple. The regional markets have been decoupling since 2008. There have been several significant drivers for the price diversion; drilling technology in North America has significantly increased economically recoverable reserves. Natural gas production in North America had declined steadily up until 2005. Natural Gas production has increased from 51 Bcfd in 2005 to 66.2 Bcfd (Billion Cubic Feet per day) in 2011. Supply has increased by over 30% while demand during this time increased by only half that amount. Pressure on spot prices has resulted. Second, the Japanese Tsunami event has caused power generation to shift from nuclear to natural gas. The fact that natural gas has largely been shut in by land based transmission infrastructure has caused prices to diverge between the continents. The spread is now at least 5X between North America and Asia.

The declining price of natural gas in North America has impacted recovery investment yields with the natural migration of drilling activity away from natural gas towards shale liquids recovery. The next chart traces rig counts and gas prices since January 2005. Early during this period, rig counts increased driven by increasing demand and weather events in the Gulf of Mexico. However, since 2009, drilling rig counts have declined significantly. The rig movement essentially puts a floor under natural gas prices at approximately \$.20 to \$.25/ Mmbtu (Million British Thermal Units). {Omnitrans is hedged through June of 2014 at approximately \$.28/ Mmbtu}

Over the longer term gas economics are likely to lift North American natural gas prices. The intercontinental pricing differentials are driving investment in export capacity. A graphic is included that highlights possible LNG export infrastructure investment. While it is unlikely all of the facilities will be permitted and constructed, it appears likely that a major facility will be developed on the West Coast of Canada at Kitimat and a Gulf of Mexico facility has been permitted by Cheniere Energy. Owners/ investors are putting together partnerships with firms capable of delivering infrastructure for distribution in LNG importing markets. The last graphic highlights forecasted North American natural gas demand. Pricing and regulatory requirements are shifting demand away from coal for electrical generation. Along with export demand, the forecast suggests demand for North American natural gas could move from 75 Bcf/d to 110 Bcf/d over the next 13 years; an increase of 45%. While plentiful supply will mitigate price increases, it is likely that the market price for natural gas in North America will trend upwards.

Also attached are two articles that speak to the export market and infrastructure investments in Kitimat. The size of the players and the size of the investments speaks to the scale of the play. {If I've done my math right, the annual export capacity at the Shell facility at Kitimat will be the equivalent of 580,000 Omnitrans sized users.} Interesting to see how competitive the arena is and also how investment risk is managed by linking both sides of the commodity transaction; the producers of the natural gas and the foreign customers. The increasing export volumes and price driven feed stock substitution to natural gas will support prices in North America for the foreseeable future.

MV:rm



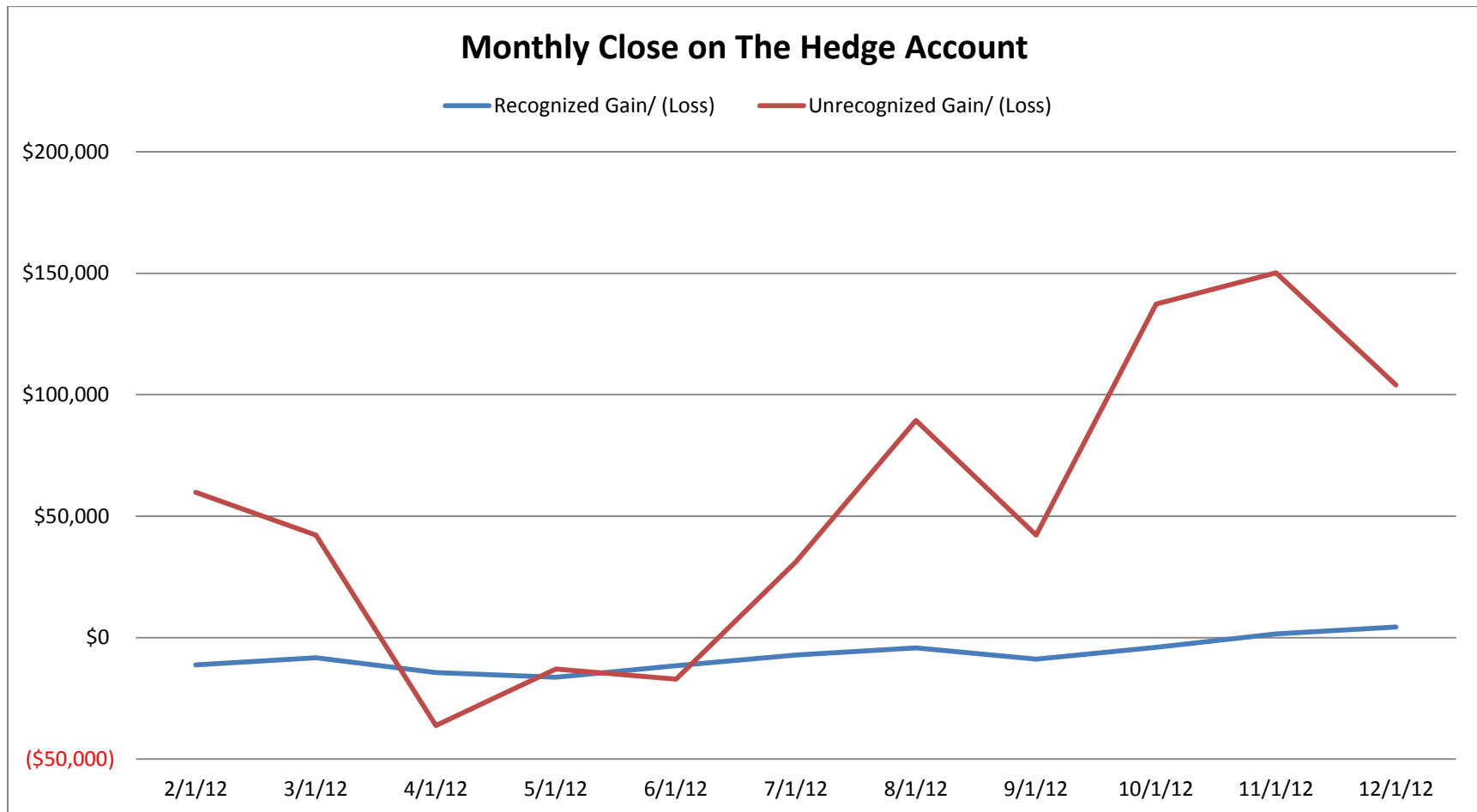


Exhibit 1: Historical Natural Gas Prices

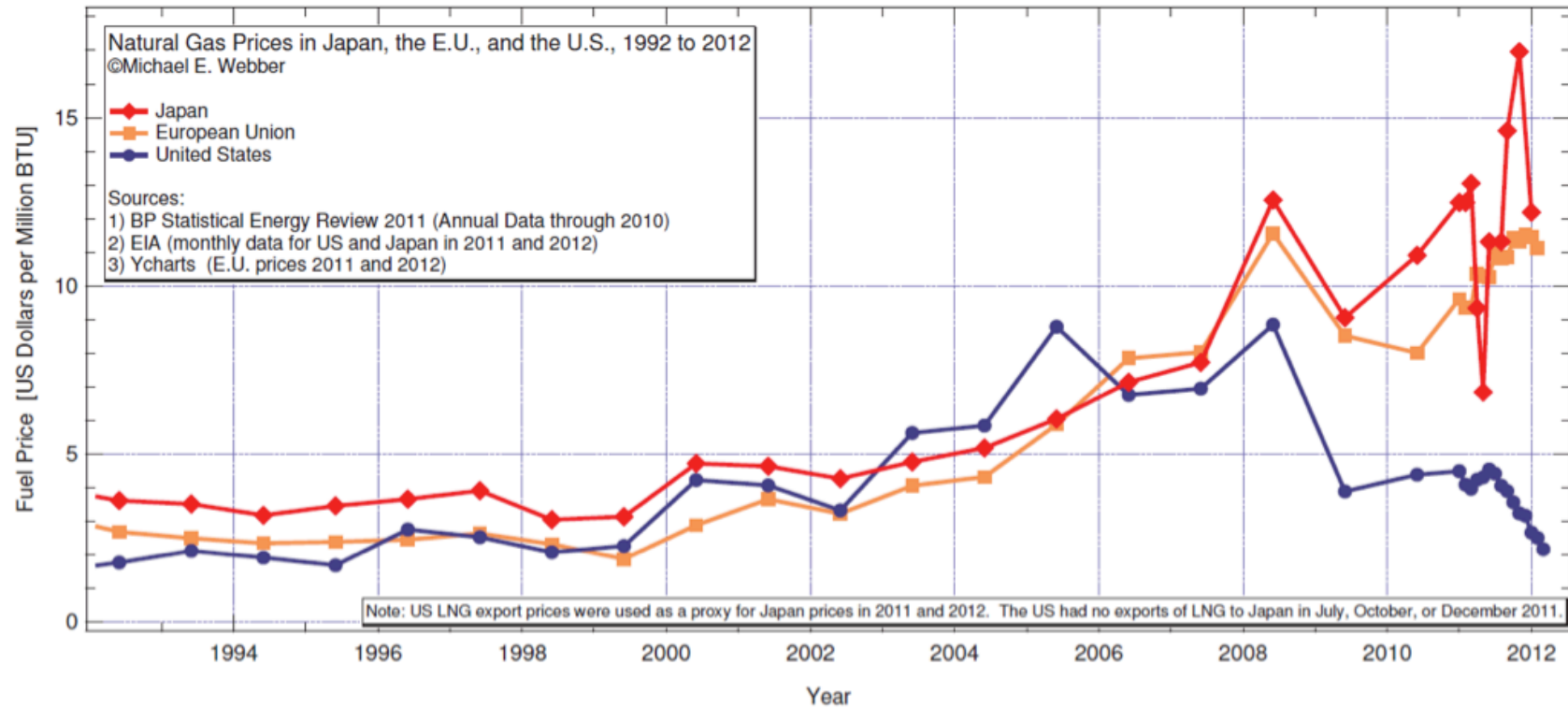


Exhibit 2: Historical Natural Gas Pricing

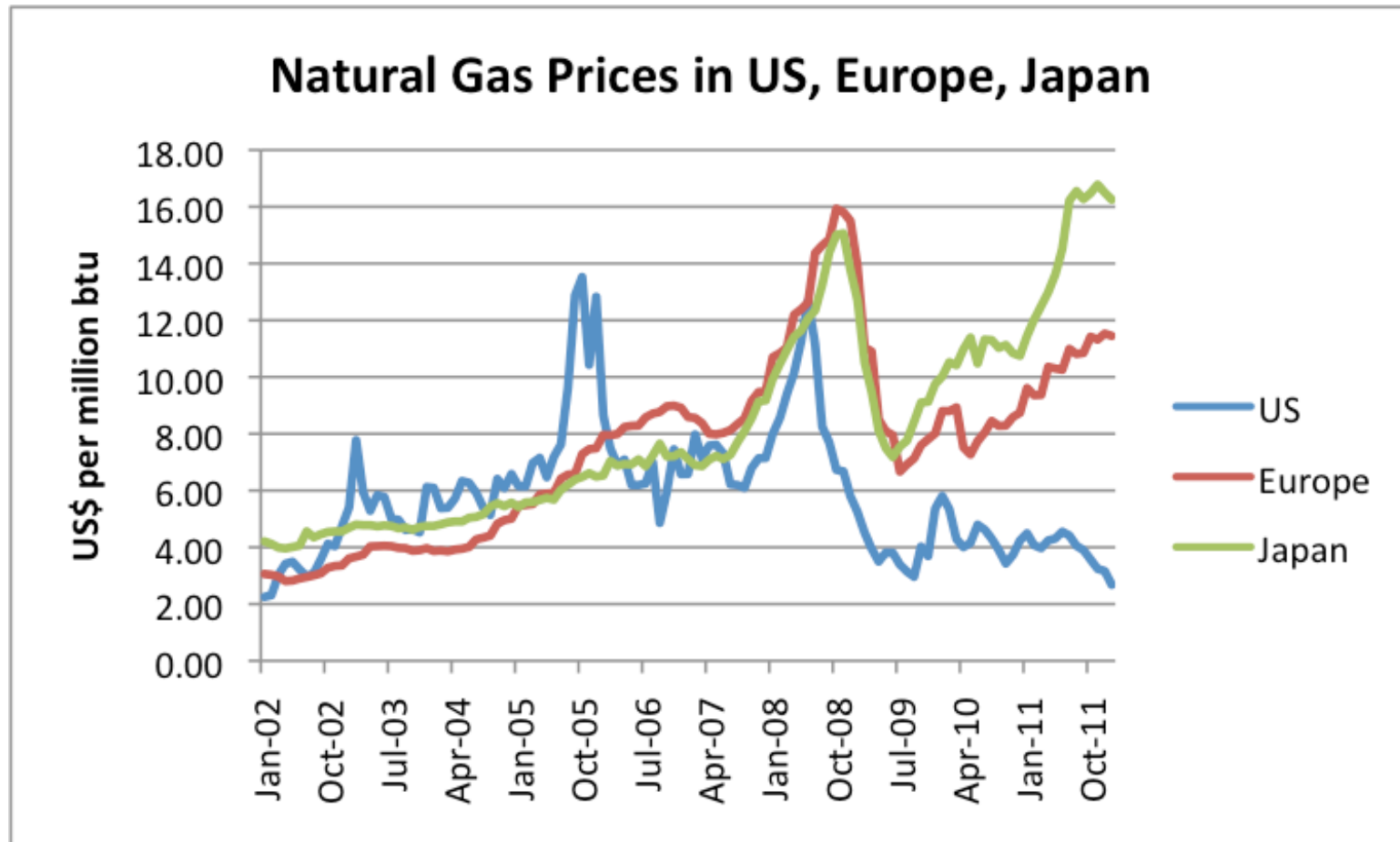


Exhibit 3: Global Natural Gas Prices

Natural Gas Overview: World LNG Prices

Federal Energy Regulatory Commission • Market Oversight • www.ferc.gov/oversight

World LNG Estimated April 2012 Landed Prices



Exhibit 4: Natural Gas Drilling Rig Counts

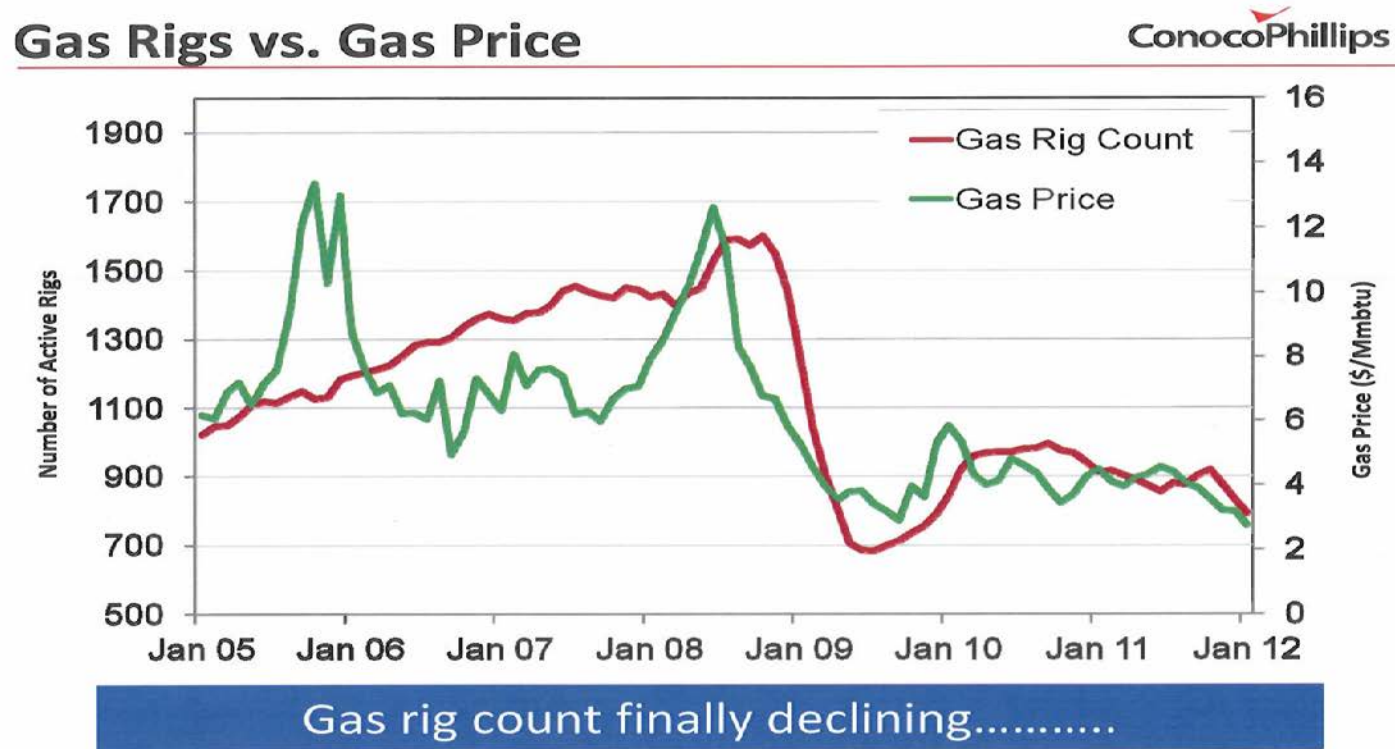
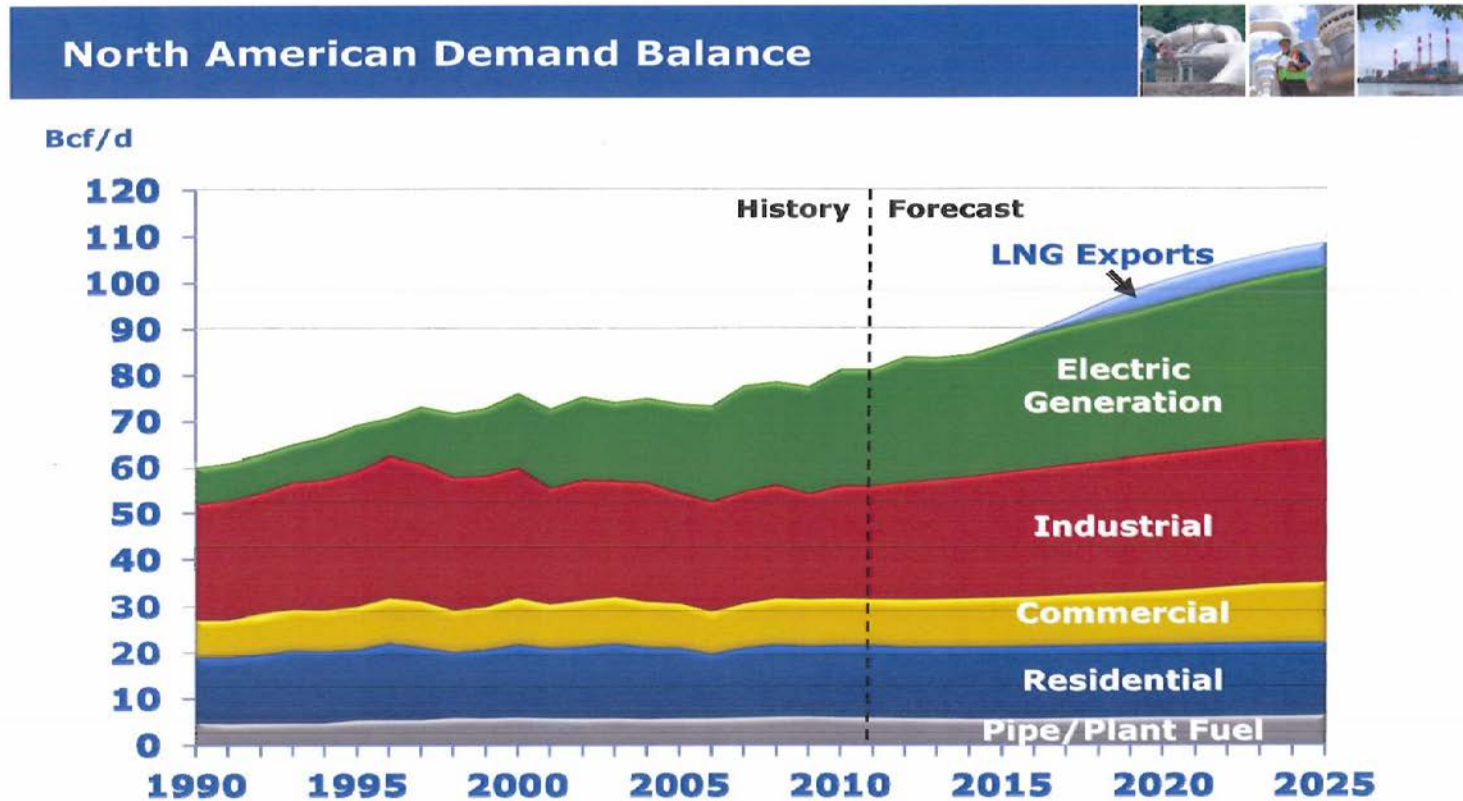


Exhibit 5: Projected North American Natural Gas Demand



Source: TransCanada Spring 2012 Outlook

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Exhibit 6: Near Term Drivers for Increased Natural Gas Demand

Potential Drivers of Future Demand		ConocoPhillips
	Timing	Impact, Bcfd
Power Generation Regulations (MATS, etc.)	2013 to 2015	5 to 15
LNG Exports	2015+	1 to 3
Ethylene Plants	2013 to 2017	0.3 to 1
Other Industrial Growth	2013+	0.3 to 1
Long-Haul Transportation (50,000 trucks per year)	2013 to 2015	0.12 to 0.36
Other Vehicles (50,000 cars per year)	2014+	0.06 to 0.18
	Total	+7 to +20

Source: EIA

THE WALL STREET JOURNAL

BUSINESS Updated October 19, 2012, 2:27 p.m. ET

Apache LNG Project Stalls Amid Competition

By BEN LEFEBVRE

Two years ago, Apache Corp. APA -0.82% helped pioneer the idea of exporting North America's abundant natural gas to Asia. But growing competition from rivals intent on doing the same thing has put its trail-blazing project in limbo.

The Houston-based energy company in 2010 offered financial backing to the first major effort to ship North American shale gas to Asia, taking a key stake in a proposed export terminal in Kitimat, a coastal town in Canada's British Columbia. The nearly \$3 billion export project, which involved liquefying natural gas for shipments that were to begin in 2017, gained the Canadian government's approval last year.

But Anglo-Dutch oil company Royal Dutch Shell RDSB.LN -0.51% PLC has since disclosed a bigger project in the same town. Its project is financed in part by big Asian buyers of liquefied natural gas, known as LNG, assuring it a ready market. In the U.S., Cheniere Energy Inc., LNG -3.28% also of Houston, joined the fray, securing contracts for a proposed U.S. Gulf Coast project with Spanish, British and Asian clients by promising prices pegged to the cheap natural gas rates now prevailing in the U.S.

Their plans have undercut Apache's ability to sign customers to long-term supply contracts and left its proposed Kitimat project without enough clients to begin construction.

An Apache spokesman said it is still scouring for LNG buyers but no longer has a firm date for completing the export terminal. It could be ready 4 ½-years after a final investment decision is made. But the company has stopped saying when it will make that decision, he added.

Apache's Kitimat project, which has EOG Resources Inc. EOG +0.45% and Encana Corp. ECA.T +0.23% as minority investors, is struggling in part because Cheniere started offering LNG at prices based on the much cheaper U.S. natural gas Henry Hub benchmark, spurring potential Apache buyers to drive a harder bargain, analysts said.

David Calvert, vice president and manager of the Kitimat LNG joint venture, told an energy conference in Calgary this month that Cheniere's pricing model "created quite a ripple through the marketplace" and had created "unrealistic" pricing expectations for Kitimat LNG, according to the Calgary Herald newspaper. Apache declined to make Mr. Calvert available for comment.

Analysts also see Apache's hesitance to move ahead as a sign it has lined up too few customers to break ground on the multi-billion-dollar project.

"It's not great news, but it's not surprising," said John Malone, a senior analyst at investment bank Global Hunter Securities. "You want to line up long-term customers, and they haven't done that yet," he said.

The stiff price competition is one of the economic consequences of the boom in natural gas production in North America due to new production technology. The glut of gas has swamped U.S. prices, which in turn has caused companies to look to foreign markets such as Asia.

Natural gas in the U.S. was trading at \$3.61 a million British thermal units on Friday. By contrast LNG in Japan sold for an average of about \$17.70 a million British thermal units for September.

Other companies, including Exxon Mobil Corp. XOM -0.07%and Kinder Morgan Inc. KMI -0.76%are also trying to get permits for U.S. LNG export facilities.

Another hurdle for Apache is competition from Shell, which announced in May that it too planned to build an LNG facility in Kitimat. Shell estimates its facility would ship 12 million tonnes of LNG a year by the end of the decade, more than twice the starting rate of Apache's project.

Shell's bid has won backing from some of the biggest LNG buyers in Asia—Korean Gas Corp., 036460.SE +2.02%Mitsubishi Corp. 8058.TO -0.07%and PetroChina Co. 601857.SH +0.11%Ltd.

"It's still a bit of a wild card whether it gets built," Morningstar analyst Mark Hanson said of Apache's project.

Shell, Asian energy giants to build largest LNG plant in B.C.

Partnership will bring massive plant to Kitimat

By Gordon Hamilton, Vancouver Sun May 15, 2012



Royal Dutch Shell PLC says it's proposing a liquefied natural gas project in Kitimat, B.C., alongside three Asian partners. The Anglo-Dutch energy giant says it will have a 40 per cent stake in the project, called LNG Canada. PetroChina, Mitsubishi Corp. and Korea Gas Corp. Pictured is an existing Shell LNG plant.

Four global energy firms led by Shell Canada say they are going to develop a 12 million-tonnes-a-year liquefied natural gas plant at Kitimat, the largest by far of four LNG proposals for the B.C. Coast.

The announcement Tuesday catapults Shell and its partners into the leading LNG developer in Canada in terms of size. By comparison, competitor Kitimat LNG, which already has an export permit, plans a plant with a capacity of five million tonnes a year.

Although Shell has not released any project costs, a recent news article in a Japanese publication pegged the investment by the partners at more than \$12 billion US.

That would make it one of the largest, if not the largest, capital investments ever in a single project in B.C., said Jock Finlayson, executive vice-president of the Business Council of British Columbia.

“This underscores both the magnitude of the opportunity we have in this rapidly developing sector as well as the sheer scale of the individual projects that are contemplated,” said Finlayson. “It’s a big one. It’s a huge one.

“We are dealing here with a world-scale, multinational business that is active all over the world. The fact that they are paying significant attention to B.C., I think, is quite exciting.”

Shell’s partners are Mitsubishi Corp. of Japan, the Korean Gas Corp. (KOGAS) and PetroChina Co. Shell holds a 40 per cent interest in the project, named LNG Canada, while the three Asian partners each hold a 20 per cent interest.

“The LNG Canada project brings together the four companies’ extensive development experience, technical depth, financial strength and access to markets to be the leading LNG developer in Canada,” the four companies stated Tuesday in a joint news release.

In a telephone interview from Calgary, Shell Canada spokesman David Williams said the project would bring significant benefits to B.C.

“A project like LNG Canada can create thousands of jobs for British Columbians and offer billions of dollars to the province over decades,” he said.

Shell’s partners all expressed confidence in the news release about making such an investment in B.C.

KOGAS vice-president Young Sik Kwon, said KOGAS “looks forward to conducting business in B.C. with respect to all local residents and their traditions.”

Mitsubishi vice-president Junichi Iseda said the Japanese company looks forward to “creating economic growth and new, important trade links between our two nations.”

PetroChina vice-president Bo Qiliang said the project “will contribute to a further strengthening of relationships between China and Canada and will help China use clean-burning natural gas to fuel its economic growth.”

The LNG Canada project would include the design, construction and operation of a gas liquefaction plant and facilities for the storage and export of LNG. The design is to include an option to expand in the future. Before making a decision to move into the development stage, the partners said in the news release that they will first conduct engineering, environmental, and stakeholder consultations.

Start-up is anticipated for the end of the decade, pending regulatory approval and investment decisions.

A race is underway among gas producers to be the first to develop an LNG plant on the west coast of North America to feed the burgeoning Asian market.

Price is the main driver: gas is selling at wellhead prices in B.C. of \$1.60 US a thousand cubic feet while in Asia, customers are paying from \$14 US to \$16 US (per million British thermal units) a thousand cubic feet. But Canada’s

stable political and economic climate and the fact that companies can own their reserves are also driving investment this way.

Shell's LNG proposal is the fourth under consideration for Kitimat but it is by far the largest — more than twice the \$4.5 billion investment planned by Kitimat LNG, the Apache, Encana, EOG partnership.

The other players:

Kitimat LNG:

A joint venture of Apache Resources, Encana Corp and EOG Resources, KLNG is furthest along the development track. They have already been issued a 20-year export licence to ship five million tonnes of LNG a year from Canada to export markets in Asia.

"We're leading the way in being able to deliver a long-term, stable and secure supply to the region," Janine McArdle, Kitimat LNG President, said earlier this year.

The partners plan a \$4.5 billion-plus liquefied natural gas terminal at Kitimat capable of producing five million tonnes of LNG a year with the potential to expand to 10 million tonnes a year. KLNG has already completed what is known as a front end engineering design (FEED), which gives certainty around project costs. The company has approximately 40 people working on access roads and on-site grading at its site at Bish Cove on Douglas Channel near Kitimat. The partners are currently negotiating long-term contracts with potential customers in A, which they expect to be signed this year. A final investment decision is expected before the end of 2012.

Paul Wykes, spokesman for Apache Canada, said although there is no firm timeline on completion, first exports are anticipated for late 2015 to early 2016.

"But those timelines can be refined as we get through the FEED studies."

Through a separate joint venture, the partners also plan to construct a \$1 billion, 466-kilometre underground pipeline, the Pacific Trail pipeline, to connect Kitimat with Spectra Energy's transmission system at Summit Lake in northeastern B.C. providing the proposed LNG plant with access to the province's growing natural gas reserves. The pipeline received a B.C. environmental assessment certificate in 2008, when it was originally planned to ship LNG from an import station at Kitimat to the Spectra system for distribution throughout North America.

On April 10, the B.C. Environmental Assessment Office approved an expansion of that pipeline from 36 inches diameter to 42 inches, ostensibly to permit gas to be pumped under lower pressure.

Petronas-Progress Energy:

Malaysian energy giant Petronas announced earlier this year that it wants to spend \$5 billion securing natural gas supplies in Western Canada. Petronas already has an agreement with Calgary-based gas company Progress Energy to acquire a 50 per cent interest in 60,000 hectares of Progress gas properties in B.C. for \$1.07 billion. Further, Petronas and Progress are planning a liquefied natural gas facility and export terminal, likely at Kitimat.

Under the agreement, Petronas would own 80 per cent and Progress 20 per cent of the proposed terminal. It is at the feasibility study phase. The partners plan a two-train facility with a total capacity of 7.4 million tonnes a year. (A train is the term used to describe the liquefaction and purification facilities at an LNG plant.)

That size of plant would require a gas supply of 560 million cubic feet a day. To finance it, the partners need proven reserves of nine trillion cubic feet, enough gas to supply the plant for 20 years.

BC LNG:

The smallest LNG proposal, BC LNG is a 50/50 joint venture between the Haisla First Nation of Kitimat, and LNG Partners LLC of Houston, Texas. They plan an LNG plant with an initial capacity of 700,000 tonnes a year for export, however, they have been issued a 20-year export licence from the National Energy Board to ship 1.8 million tonnes a year of LNG. The gas for BC LNG would come on the existing Pacific Northern Gas pipeline and possibly on the proposed Pacific Trail pipeline. The plant capacity could be increased to 1.8 million tonnes as additional pipeline capacity is built.

ITEM # E7

DATE: January 9, 2013

TO: Board Chair Dick Riddell and Members of the Omnitrans Board of Directors

THROUGH: Milo Victoria, CEO/General Manager

FROM: Donald Walker, Director of Finance

SUBJECT: OMNITRANS' FISCAL YEAR ENDED JUNE 30, 2012 AUDIT REPORTS

FORM MOTION

Receive and file the following audit reports for fiscal year ended June 30, 2012:

- Annual National Transit Database Reporting (NTD)
- Communication of Audit Results With Those Charged With Governance
- Annual Financial Report
- Management Letter
- Single Audit Report
- Transportation Development Act Compliance Report (TDA)

SUMMARY AND BACKGROUND

As a recipient of federal, state, and local funding, Omnitrans is required to have an annual audit conducted by independent auditors in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States. The audit also included fifteen tasks contained in San Bernardino Associated Governments (SANBAG) Transportation Development Act 2005 Compliance Guide.

The audit expresses a professional opinion as to whether the financial statement prepared by management with the Board of Directors' oversight are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles. Since fiscal year 2005, Omnitrans has received an "unqualified opinion" on its financial statements.

The financial statements for fiscal year ended June 30, 2012 are presented in the Annual Financial Report along with comparative financial information for the year ended June 30, 2011.

A Comprehensive Annual Financial Report (CAFR) for fiscal year 2012 will be submitted to the Government Finance Officers Association (GFOA) for a Certificate of Achievement for Excellence in Financial Reporting.

The Certificate of Achievement is the highest form of recognition in governmental accounting and financial reporting, and its attainment represents a significant accomplishment by an Agency and its management. Omnitrans was awarded a Certificate of Achievement in 1998, 1999, 2000, 2006, 2007, 2008, 2009, 2010 and 2011.

MV:DW

Separate Documents: Annual National Transit Database Reporting (NTD)
Communication of Audit Results With Those Charged With Governance
Annual Financial Report
Management Letter
Single Audit Report
Transportation Development Act Compliance Report (TDA)

ITEM # E8

DATE: January 9, 2013

TO: Board Chair Dick Riddell and Members of the Omnitrans Board of Directors

THROUGH: Milo Victoria, CEO/General Manager

FROM: Maurice A. Mansion, Treasury Manager

**SUBJECT: BUDGET ASSUMPTIONS FOR PREPARING THE
FISCAL YEAR 2013/2014 BUDGET**

FORM MOTION

Approve the assumptions listed below allowing Omnitrans' staff to develop the Operating and Capital Budgets for Fiscal Year 2013 - 2014.

This item was reviewed by the Administrative & Finance Committee at its December 10, 2012 meeting and recommended for approval.

SUMMARY AND BACKGROUND

A critical component in the development of the Agency's budget is the development of budget assumptions. This information was obtained through research performed and includes searches on the Internet, review of Agency data including the Service Plan assumptions and the Teamsters and ATU memorandum of understanding.

Maintenance and Administrative/Support Unit (Teamsters)	Effective Date
MOU End	June 30, 2012
Wage increase: Based on contract negotiation	TBD
Step progression increase	Per MOU qualifications
Benefits Package: Current package is \$437.50 per pay period; maximum of \$10,500/year.	10/01/2010
Source: MOU effective July 1, 2009 through June 30, 2012	
Coach Operators (ATU)	Effective Date
MOU End	March 31, 2013
Wage increase: Based on contract negotiation	TBD
Step progression increase	Per MOU qualifications
Benefit Package: Current package is \$485 per pay period; maximum of \$11,640/year.	
Source: MOU effective April 1, 2010 through March 31, 2013	

Management /Confidential	Effective Date
Pay for Performance: In accordance with personnel policy manual	FY 2013-14
Benefit Package: In accordance with personnel policy manual Source: Omnitrans Human Resources	FY 2013-14

Insurance	Effective Date
Workers' Compensation SIR/IBNR (Incurred But Not Reported) – Stays constant based on Actuarial Analysis	Fiscal Year 2012
SDI: 1.0%	FY 2013-14
FICA-Medicare 1.45%	FY 2013-14
Source: Omnitrans Finance Department	

CalPERS	Effective Date
10.666% Employer Contribution (2% @55 Plan) – Miscellaneous Plan	FY 2013-14
Employee contribution covered in employees' benefits package per personnel policy and MOU agreements. Source: Omnitrans Finance Department	

Unemployment	Effective Date
Annual average expected to remain at 11.7%	October 2012
Source: U.S. Department of Labor Riverside/San Bernardino/Ontario CA Metropolitan Statistical Area http://data.bls.gov/eag/eag/ca_riverside.msa.htm	

Energy /Fuel Costs	Effective Date
LNG Fuel: \$.92/gallon for FY 13-14	FY 2013-14
Source: Procurement Department	
Unleaded Fuel: \$3.98/gallon for FY 13-14	FY 2013-14
Source: Scott Graham, Director of Operations	

Consumer Price Index	Effective Date
Inflation of about 3.0%	October 2012
Source: U.S. Bureau of Labor Statistics http://www.bls.gov/news.release/cpi.t03.htm	

RECOMMENDATION

Approve the assumptions allowing Omnitrans' staff to develop the Operating and Capital Budgets for Fiscal Year 2013 - 2014.

MV:MM

ITEM # E9

DATE: January 9, 2013

TO: Board Chair Dick Riddell & Members of the Omnitrans Board of Directors

FROM: Milo Victoria, CEO/General Manager

THROUGH: William Tsuei, Director of Information Technology

**SUBJECT: ADOPT RESOLUTION NO. 262-13
AUTHORIZING DESTRUCTION OF RECORDS**

FORM MOTION

Adopt Resolution No. 262-13, including Appendix A, authorizing destruction of records in accordance with Omnitrans' Records Management Program.

BACKGROUND AND SUMMARY

Omnitrans' current Records Management Program was initially adopted by the Board of Directors in 1998, with subsequent revisions approved in January 2006 and February 2007. The revision in 2007 incorporated the "Local Government Records Management Guidelines," which requires that a schedule of documents to be destroyed be approved by the Board of Directors on an annual basis.

MV:wyt

RESOLUTION NO. 262-13

**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 9th day of January 2013, by the following vote to wit:

AYES:

NOES:

ABSENT:

Milo Victoria, CEO/General Manager
Secretary, Omnitrans Board of Directors

Dick Riddell, Chair
Omnitrans Board of Directors

Approved as to form:

Carol Greene
Legal Counsel for Omnitrans

APPENDIX "A"
LIST OF OMNITRANS RECORDS TO BE DESTROYED
January 9, 2013

FILE NAME

YEARS TO BE DESTROYED

ALL DEPARTMENTS

Correspondence Files	FY 2009 & prior
Departmental Copies of Budgets	FY 2008 & prior
Departmental Copies of Accounts Payable Records	FY 2008 & prior
Departmental Copies of Accounts Receivable Records	FY 2007 & prior
Employee Grievance Files - Closed	FY 2003 & prior
Desk Calendars & Diaries	CY 2011 & prior
Telephone Message Books or Slips	CY 2010 & prior
Department Monthly Reports	FY 2010 & prior

EXECUTIVE OFFICE

Statement of Economic Interests	CY 2004
Loss Runs	CY 2008 - 2009
Claims - (Resolved for more than five years)	Closed prior to 1/31/08

PROCUREMENT

Completed Contracts (if grant is closed and audited with no activity since FY 2005)	FY 2009 & prior
Formal Procurements Documents (other than resulting contracts)	FY 2009 & prior
Purchase Orders and Related Documentation	FY 2009 & prior

FINANCE

Accounts Payable Records (With Grant closed and audited for three or more years)	FY 2006 & prior
Accounts Receivable Records	FY 2006 & prior
Annual Budgets	FY 2002 & prior
Balance Sheets	FY 2007 & prior
Banking Records	FY 2007 & prior
Capital Property Records (Inventory)	FY 2005 & prior
External Audits	FY 2002 & prior
Financial Reports and Statements	FY 2002 & prior
FTA and STA Annual Reports	FY 2006 & prior
General Accounting Procedures	FY 2002 & prior
General Accounting Records	FY 2006 & prior
Investments & Insurance Policies (if no open claims)	FY 2006 & prior
Payroll Records	FY 2006 & prior
Profit & Loss Statements	FY 2002 & prior
Tax Returns & Reports	FY 2006 & prior

MARKETING

Customer Contact Forms	FY 2009	& prior
Daily Sales Report	FY 2009	& prior
Employee Rideshare Record Forms	FY 2005	& prior
Promotional Contests/Drawings	FY 2009	& prior
Rideshare Affected Sites Files	FY 2007	& prior

OPERATIONS

Dispatch Logs	FY 2009	& prior
Service Interruption Reports	FY 2009	& prior
Daily Overtime Logs	FY 2009	& prior
Alternative Transportation Logs	FY 2009	& prior
Field Supervisor Logs	FY 2009	& prior
Schedule Adherence	FY 2009	& prior
Sign-on Sheets	FY 2009	& prior
Nutrition Trip Sheets	FY 2010	
Contract Services Accident Reports (Resolved for over five years)	FY 2004-2005	
Customer Contact Forms	FY 2005-2006	
Waybills	CY 2005	& prior

HUMAN RESOURCES

Applications for Employment & Related Documents	CY 2010	& prior
Employee Accident/Incident Reports & Related Documents (Resolved for over five years)	CY 2005	& prior
Employees Personnel Files (Terminated)	CY 2002	& prior
Service Awards Annual Records	CY 2006	& prior

Safety/Health & Regulatory Compliance

Employee Health Related Records	CY 1982	& prior
Environmental Related Records (EPA)	CY 1982	& prior
Regulatory Compliance Inspection Reports (with no activity since CY 2003)	CY 2003	& prior
Internal Inspection Reports	CY 2009	& prior
Safety and Health Training Records	CY 2009	& prior

PLANNING

Access Fare Structure, Zone Maps, Requests and General Issues	CY 2003	& prior
Annual Service Plan	CY 1992	& prior
Comments on Proposed Regulations	CY 2008	& prior
Comprehensive Operational Analysis Reports	CY 1992	& prior
Cooperative Service Agreements	CY 2002	& prior
Fixed Route Summary Reports	CY 2008	& prior
Fixed Route Surveys - All Routes	CY 2008	& prior
Omnitrans ADA Plan & Workpapers	CY 2003	& prior
On-Board Survey Forms	CY 2010	& prior
Short Range Transit Plan	CY 1992	& prior
Title VI Updates	CY 2005	& 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 2009	& prior
Supervisors' Reports/Tailgate Forms	CY 2009	& prior
Maintenance Records of Disposed Vehicles	CY 2009	& prior
Work Orders	CY 2009	& prior
A/P Receipts & Statements	CY 2009	& prior
Nextel Bills	CY 2009	& prior
Tire Mileage	CY 2009	& prior
CII List	CY 2009	& prior
Estimate Of Repair	CY 2009	& prior
Period Report Back-Up	CY 2009	& prior
AQMD Inspection Forms	CY 2009	& prior
CNG Daily Inspections	CY 2009	& prior
LCNG Fueling Station Inspection	CY 2009	& prior
Retrofit/Rebuild	CY 2009	& prior

ITEM # E10

DATE: January 9, 2013

TO: Board Chair Dick Riddell & Members of the Omnitrans Board of Directors

THROUGH: Milo Victoria, CEO/General Manager

FROM: Milind Joshi, sbX Program Manager

**SUBJECT: AUTHORIZE CHANGE ORDER NO. 16, PLN08-1, DESIGN
CONSULTING SERVICES - sbX E STREET CORRIDOR BUS RAPID
TRANSIT (BRT) CONSTRUCTION PROJECT**

FORM MOTION

Authorize the CEO/General Manager to execute Change Order No. 16 to increase Contract PLN08-1 with Parsons Transportation Group (Parsons) of Pasadena, California, by an additional \$1,487,350, plus a 10% contingency of \$148,735, for a remaining contingency of \$422,945, and a 3.27% Cost Allocation Plan of \$53,500 for a new total not to exceed amount of \$18,425,585.

This item was reviewed by the Administrative & Finance Committee at its December 10, 2012, meeting and recommended to the Board of Directors for approval.

BACKGROUND & ANALYSIS

During the construction phase of the sbX E Street Corridor Project, as Engineer of Record, Parsons is required to provide a variety of services. Services include: review and approve submittals, review and respond to requests for information (RFI), make design revisions and changes based on site conditions, address a variety of environmental, and safety & security issues, as well as other regulatory/engineering matters, provide assistance during start-up and commissioning, develop the final “as-build” drawings for future reference, attend a variety of project meetings, and participate in construction site visits.

The original approved SDC (Services During Construction) budget was \$1,194,610. Based on current trends of usage, it has been determined that the current budget is not adequate to cover SDC costs for the entire duration of the project. Parsons’ proposal for the remaining SDC is \$1,487,350, compared to the Independent Cost Estimate (ICE) of \$1,584,400.

Therefore, staff requests additional spending authority as outlined below:

• Parsons Proposal for Additional SDC:	\$1,487,350
• Contingency @10%:	\$ 148,735
• Cost Allocation Plan	<u>\$ 53,500</u>
Total:	\$1,689,585

Upon approval by the Board of Directors, the total amended budget for the SDC will be \$2,830,695, which will be approximately 3.4% of the approved baseline construction budget of \$84.6 million. The budget for services during construction (SDC) typically ranges between 2 – 4% of construction costs, depending upon the nature and complexity of the project.

This contract amendment will bring the overall contract amount for Parsons Transportation Group from the current \$16,461,790 to an amended amount of \$17,949,140.53, with a remaining contingency of 422,945.

Based on the current projections, the overall cost Estimated At Completion (EAC) for the Project is estimated to be approximately \$183 million against the approved budget of \$191.7 million.

FUNDING SOURCE

FUNDING	GRANT #	AMOUNT	PROJECT NAME
FTA	CA-90-Y775	\$1,351,668	Construction Management Services for sbX E Street Corridor BRT Project
STA	10-09-OMN-B	\$ 337,917	Construction Management Services for sbX E-Street Corridor BRT Project

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


This procurement meets the requirements of Omnitrans' current Procurement Policy and Procedures Manuals.

CONCLUSION

If the additional spending authority is not approved, the budget for engineering services during construction (SDC) will not be available to Parsons to process the submittals, RFIs, design changes, and other engineering services necessary for environmental, safety & security, other regulatory compliance issues, field visits, and project meetings. As a result, the construction activities could potentially be halted, thereby causing schedule slippage, an increase in overall project costs, and most importantly, non-compliance with the Project Construction Grant Agreement (PCGA) that Omnitrans has signed with the Federal Government.

MV:MJ

Attachment

 Omnitrans STANDARD CONTRACT 1700 West Fifth Street San Bernardino CA 92411	<input type="checkbox"/>	New	CHANGE ORDER NO. 16			Contract Number PLN08-1	
	<input checked="" type="checkbox"/>	Change					
	<input type="checkbox"/>	Cancel					
	Omnitrans Department Integrated Project Management Office			Dept. No. 9030		Project sbX E Street Corridor	
Director of Procurement	Omnitrans Procurement Representative Debra Nicastro, Sr. Contracts Specialist			Telephone (909) 963-5234		Revised Total Contract Amount \$17,949,140.00	
			Contract Type: Services – Time and Material (T&M) Not-to-Exceed				
	Change Order Start Date December 21, 2011	Contract Start Date June 26, 2008	Contract End Date April 30, 2014	Last Modified Amount \$16,461,790.53	Amount of this Change Order Not-to-Exceed \$1,487,350.00		

THIS CHANGE ORDER NUMBER 16 TO THE ORIGINAL AGREEMENT IS ISSUED to specifically include those certain additional Requirements, Terms, and Conditions, as they are listed in Section 1 of this Change Order, and is entered into in the State of California by and between Omnitrans, a Joint Powers Authority; hereinafter called Omnitrans, and

Name

Parsons Transportation Group

hereinafter
called

Consultant

Address

100 West Walnut Street

Pasadena, CA 91124

City, State, & Zip Code

(626) 640-440-2473

35.0982270

Telephone

Federal ID No.

1. Scope of Change - This Change Order No. 16 is issued to increase Contract PLN08-1 Total Dollar Amount From: \$16,461,790.53 to \$17,949,140.53 expanding Services During Construction (SDC's) through April 30, 2014.

2. Impact on original Agreement:

- a) The net impact of this Change Order No. 16 is an increase in the cost of the Contract by \$1,487,350.00, from the last amended amount of \$16,461,790.53, to a new revised contract total

CHANGE ORDER NO.16

CONTRACT PLN08-1

of \$17,949,140.00, inclusive of all previously agreed upon change orders. Payment for services rendered under this Change Order No. 16 will be invoiced consistent with the terms and conditions of the original Agreement. Consultant will amend the original Tasks and WBS to reflect the changes under this Change Order No. 16.

- b) Except where they may have been amended by subsequent Change Orders, all original Terms and Conditions of the existing Contract remain in full force and effect. This Change Order No. 16 is an amendment to an existing Agreement between Omnitrans and the Contractor, and all previously operative contract provisions shall apply hereto unless specifically exempted or otherwise previously amended. The amount and time changes indicated herein, if any are allowed, are the maximum agreed to by both Omnitrans and the Consultant for the changes required herein.
- c) In consideration of the foregoing adjustments in contract sum, the Consultant hereby releases Omnitrans in perpetuity from all claims, demands, or causes of action arising out of the transactions, events, and occurrences giving rise to this Change Order No. 16. This written Change Order is the entire agreement between Omnitrans and Consultant with respect to this Change Order No. 16, exclusively. The cost of the change indicated on the face of this Change Order is the entire amount of the change, and no backup documentation either attached hereto or incorporated herein by reference may reserve the Consultant's right to increase the contract time or the cost of this change for extended overhead or general conditions or any other reason.
- d) The Consultant shall submit timesheets with names and hourly rates of the Consultants employees and/or the Consultants' subcontractor employees who work on Change Order No. 16 in accordance with the invoicing requirements within Contract No. PLN08-1.
 - a. Attachment A – Parsons' Transportation Group Proposed Estimate dated November 26, 2012 is hereby a part of this Change Order No. 16.
 - i. The Consultant shall notify Omnitrans in writing of any and all personnel changes and burden rates during performance of this Change Order No. 16.

3. Instructions: Print two copies, sign both originals of this Change Order No. 16, and return both signed originals to Omnitrans' Sr. Contracts Specialist, within ten (10) business days.

IN WITNESS WHEREOF, OMNITRANS and the CONSULTANT have each caused this Change Order No. 16 to Contract PLN08-1 to be subscribed by its respective duly authorized officers on its respective behalf.

OMNITRANS

By: _____

Print Name:

Milo Victoria

Print Title:

CEO/General Manager

Date: _____

PARSONS TRANSPORTATION GROUP

By: _____

Print Name:

Print Title:

Date: _____

***ATTACHMENT A – PARSONS’ PROPOSED ESTIMATE
TO COMPLETE CONTRACT PLN08-1 DATED
NOVEMBER 26, 2012
(Twelve Pages)***

November 26, 2012

Ms. Debra Nicastro
Senior Contract Specialist
Omnitrans
201 North E Street, Suite 202
San Bernardino, CA 92401

Contract: sbX E Street Corridor BRT Project – Contract Number PLN08-1

Subject: Estimate to Complete (Revised) – Services during Construction

Dear Ms. Nicastro:

Please find attached the requested revised Estimate to Complete (ETC) for the remaining Services during Construction (SDC) tasks through completion of construction in April 2014. Also included are the back-up calculations spreadsheets that explain the entries made in this ETC. There is no budget remaining to fund the continued current level of services from the Parsons Team so it is very important that we receive a supplement to CO#15, Service during Construction quickly.

The Parsons Team is available to discuss this ETC at Omnitrans convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read 'A. Loewenstein', with a long horizontal flourish extending to the right.

Avrum Loewenstein, P.E.
Project Manager

Attachment
Cc: SDC PM File

Services during Construction - Estimate to Complete (ETC) REVISED

26-Nov-12

Activity	Firm	WBS	Gruen	Iteris	PTG	MIG	AP	Subtotal
Project Management/Administration	Parsons	61000						
	Gruen	61100	\$50,000		\$43,000			\$43,000
	IEG	61200	\$11,000					\$50,000
	Iteris	61300		\$10,880				\$11,000
	MIG	61400				\$2,640		\$10,880
Meetings/Field Visits	AP	61500					\$2,400	\$2,640
	Parsons	61010			\$105,000			\$2,400
	Gruen	61110	\$130,000					\$105,000
	IEG	61210	\$18,000					\$130,000
	Iteris	61310		\$6,080				\$18,000
ODCs	MIG	61410				\$3,000		\$6,080
	AP	61510					\$14,400	\$3,000
	Parsons	61020			\$21,575			\$14,400
	Gruen	61120	\$10,000					\$21,575
	IEG	61220	\$1,000					\$10,000
Submittals	Iteris	61320		\$1,800				\$1,000
	MIG	61420				\$500		\$1,800
	AP	61520					\$1,350	\$500
	Parsons	61030			\$73,650			\$1,350
	Gruen	61130	\$68,000					\$73,650
RFIs	IEG	61230	\$5,000					\$68,000
	Iteris	61330		\$25,600				\$5,000
	MIG	61430				\$4,000		\$25,600
	Parsons	61040			\$121,000			\$4,000
	Gruen	61140	\$116,000					\$121,000
Design Changes	IEG	61240	\$14,000					\$116,000
	Iteris	61340		\$4,480				\$14,000
	MIG	61440				\$3,000		\$4,480
	Parsons	61050			\$56,400			\$3,000
	Gruen	61150	\$128,000					\$56,400
	IEG	61250	\$20,000					\$128,000
	Iteris	61350		\$16,640				\$20,000
	MIG	61450				\$3,000		\$16,640
								\$3,000

Communications System Design Review	Parsons	61060				\$0			\$0	\$0
Start-Up Services & Testing	Parsons	61070				\$49,000			\$49,000	\$0
	IEG	61270							\$49,000	\$68,200
	Iteris	61370			\$19,200				\$19,200	\$0
As-Build Drawings	Parsons	61080				\$172,135			\$172,135	\$287,755
	Gruen	61180		\$70,000					\$70,000	
	IEG	61280		\$6,000					\$6,000	
	Iteris	61380			\$37,120				\$37,120	
	MIG	61480						\$2,500	\$2,500	
SSMP Update	Parsons	61800				\$40,000			\$40,000	\$40,000
Modifications to PNR at Anderson Street Engineering Services	Parsons	61900							\$0	
	Gruen	61910							\$0	\$0
Total			\$647,000	\$121,800	\$681,760	\$18,640	\$18,150	\$1,487,350	\$1,487,350	\$1,487,350

Note: For additional information see back-up worksheets from Gruen, Iteris, PTG, MIG, AP (Archaeo-Paleo)



sbX E Street Corridor BRT Project

16-Nov-12

Services during Construction - Estimate to Complete (ETC)
GA Back-up

Activity	Rate	Hours	Estimate to Complete	Comments
Project Management/Administration				April 2014 completion - 20 months (88 weeks) August 2012-April 2014
Gruen rounded fee				
Project Manager	\$163	312.4	\$51,000	
IEG				
			\$12,614	already approved in our fee but not used
Meetings/Field Visits				
Gruen rounded fee				
Project Manager	\$163	168	\$153,500	
Partner In Charge	\$233	16	\$27,384	
Architecture - Senior Designer	\$139	320	\$3,728	
Landscape - Senior Designer	\$139	560	\$44,480	
Landscape - Intermediate Designer	\$102	0	\$77,840	
			\$0	
IEG rounded fee				
			\$20,800	
Project Manager	\$130	160	\$20,800	
ODCs				
Gruen				
			\$12,000	\$600 per month for 20 months based on current billings
IEG				
			\$1,320	already approved in our fee but not used
Submittals				
Gruen rounded fee				
				remaining + closeout
Project Manager	\$163	40	\$80,000	
Architecture - Senior Designer	\$139	264	\$6,520	
Landscape - Senior Designer	\$139	264	\$36,696	
IEG rounded fee				
			\$5,720	
Project Manager	\$130	6	\$780	
Project Engineer	\$95	52	\$4,940	
RFIs				
Gruen rounded fee				
			\$137,000	
Project Manager	\$163	88	\$14,344	
Architecture - Senior Designer	\$139	352	\$48,928	
Landscape - Senior Designer	\$139	528	\$73,392	
IEG rounded fee				
			\$17,000	
Project Manager	\$130	20	\$2,600	
Project Engineer	\$95	150	\$14,250	

Activity	Rate	Hours	Estimate to Complete	Comments
Design Changes				
Gruen rounded fee				
Project Manager	\$163	20	\$150,000	
Architecture - Senior Designer	\$139	352	\$3,260	
Landscape - Senior Designer	\$139	704	\$48,928	
			\$97,856	
IEG rounded fee				
Project Manager	\$130	40	\$24,000	
Project Engineer	\$95	196	\$5,200	
			\$18,620	
Communications System Design Review				
Start-Up Services & Testing				
As-Build Drawings				
Gruen rounded fee				
Project Manager	\$163	24	\$70,000	reduced from original proposal but more than approved
Partner In Charge	\$233	8	\$3,912	
			\$1,864	
Architecture - Senior Designer	\$139	112	\$15,568	
Architecture - Intermediate Designer	\$102	160	\$16,320	
Landscape - Senior Designer	\$139	112	\$15,568	
Landscape - Intermediate Designer	\$102	160	\$16,320	
IEG fee				
			\$5,700	already approved in our fee but not used
SSMP Update				
Modifications to PNR at Anderson Street Engineering Services				
Gruen fee			\$2,875	already approved in our fee but not used

Services during Construction - Estimate to Complete (ETC)

Activity	Firm	WBS	Estimate to Complete	Comments
Project Management/Administration	Parsons	61000		assumes April 2014 completion of services (20 months August 2012-April 2014)
	Gruen	61100	\$51,000	
	IEG	61200	\$12,614	equals remainder of amount authorized
	Iteris	61300		
Meetings/Field Visits	MIG	61400		
	AP	61500		
	Parsons	61010		
	Gruen	61110	\$153,500	landscape & architectural
ODCs	IEG	61210	\$20,800	
	Iteris	61310		
	MIG	61410		
	AP	61510		
Submittals	Parsons	61020		
	Gruen	61120	\$12,000	
	IEG	61220	\$1,320	equals remainder of amount authorized
	Iteris	61320		
RFIs	MIG	61420		
	AP	61520		
	Parsons	61030		
	Gruen	61130	\$80,000	remaining & closeout
Design Changes	IEG	61230	\$5,720	remaining & closeout
	Iteris	61330		
	MIG	61430		
	Parsons	61040		
Communications System Design Review	Gruen	61140	\$137,000	
	IEG	61240	\$17,000	
	Iteris	61340		
	MIG	61440		
Start-Up Services & Testing	Parsons	61050		
	Gruen	61150	\$150,000	
	IEG	61250	\$24,000	
	Iteris	61350		
As-Build Drawings	MIG	61450		
	Parsons	61060		
	Parsons	61070		
	IEG	61270		
SSMP Update	Iteris	61370		
	Parsons	61080		
	Gruen	61180	\$70,000	not used to date; signed contract shows \$57,000 which is less than our original proposal
	IEG	61280	\$5,700	not used to date
Modifications to PNR at Anderson Street Engineering Services	Iteris	61380		
	MIG	61480		
	Parsons	61800		
	Gruen	61900	\$2,875	not used to date
total to complete remaining authorized not yet billed (difference) add to contract		61910	\$743,529	
			\$90,955	as of August 2012
			\$652,574	

Iteris TRAFFIC ENGINEERING DESIGN SERVICES DURING CONSTRUCTION (REVISED)
ESTIMATE TO COMPLETE 11/23/12

	Traffic Signal Upgrades		VMS System		TSP/Interconnect Comm		TOTAL		Total Hours	Labor Rate	Labor Cost	ODC	Total Cost
	Number	Hours	Number	Hours	Number	Hours	Number	Hours					
Task Management							17	68		\$160	\$10,880		\$10,880
Product Data Submittals	0	0	0	0	0	0	0	0					
Design Submittals	0	0	0	0	0	4	64	4	64				
Test Submittals	4	32	1	8	4	4	32	9	72				
Training and Doc Submittals	0	0	0	0	0	3	24	3	24	\$160	\$25,600		\$25,600
RFIs	8	16	0	0	0	6	12	14	28	\$160	\$4,480		\$4,480
Design Changes RFCs	4	32	0	0	0	0	0	4	32				
Design Changes RFCs/Complex	3	72	0	0	0	0	0	3	72	\$160	\$16,640		\$16,640
Start Up Service Assistance		40					80		120	\$160	\$19,200	\$800	\$20,000
As Built Drawings	52	208				6	24		232	\$160	\$37,120	\$400	\$37,520
Field Meetings	0	0	0	0	0	3	24	3	24				
Conference Call Meetings						14	14		14	\$160	\$6,080	\$600	\$6,680
TOTAL		400			8		274		750		\$120,000	\$1,800	\$121,800

11/7/2011

\$121,800

Submittal	Hours Per
Task Management	4 month
Product Data	2 submittal
Design Submittal	16 submittal
Test Submittal	8 submittal
Training and Doc Submittal	8 doc
RFI	2 RFI
RFC	8 change
RFC/Complex	24 change
Field Meetings	8 meeting
Conference Call Meetings	1 call
As Built Drawings	4 plan sheet

Activity	Hours
Task Management	68
Submittal Reviews	160
RFI Reviews	28
Construction Meetings	24
Weekly Meetings	14
Design Changes RFCs	104
Start Up Assistance	120
As Built Drawings	232
Total Hours	750
Hourly Rate	\$160
Labor Costs	\$ 120,000
ODCs	\$ 1,800
Total Costs	\$ 121,800

11/23/2012

Iteris HOURLY RATE CALCULATION WORKSHEET
ESTIMATE TO COMPLETE - 11/23/12

	Base	Overhead	Year 1	Year 2	Year 3	Average
Curry	\$ 79.56	\$ 138.58	\$ 239.95	\$ 247.15	\$ 254.56	
Frislie	\$ 46.12	\$ 80.33	\$ 139.10	\$ 143.27	\$ 147.57	
Murillo	\$ 66.38	\$ 115.62	\$ 200.20	\$ 206.21	\$ 212.39	
Ramirez	\$ 29.80	\$ 51.91	\$ 89.88	\$ 92.57	\$ 95.35	
Hovsepian	\$ 50.42	\$ 87.82	\$ 152.07	\$ 156.63	\$ 161.33	
Hunter	\$ 27.60	\$ 48.07	\$ 83.24	\$ 85.74	\$ 88.31	
Weighted Average			\$ 155.71	\$ 160.38	\$ 165.19	
Months			4	12	1	17
Time Period			Dec 12-Mar 13	Apr 13-Mar 14	Apr 14	
			\$ 623	\$ 1,925	\$ 165	\$ 2,713
Average						\$ 159.57

Breakdown of Hours	
Curry	0.20
Frislie	0.25
Murillo	0.20
Ramirez	0.05
Hovsepian	0.05
Hunter	0.25
	1.00

Overhead Rate	174.18	Percent
Salary Escalation	3.00	Percent
Fee On Labor+OH	10.00	Percent

11/23/2012

Parsons Estimate to Complete - Services during Construction (REVISED)

26-Nov-12

WBS	DESCRIPTION	RATE	HOURS	TOTAL	NOTES
61010 Meetings					
	Standing City Meeting	\$ 200.00	106	\$ 21,200.00	2 hrs/meeting. 1 meeting per wk for 8 mths and bi-weekly mtgs for 10 months for a total of 53 mtgs
	Standing RFI/Submittal Meeting	\$ 200.00	142	\$ 28,400.00	2 hrs/meeting. 1 meeting per wk for a total of 71 meetings.
	Standing Construction Meetings	\$ 200.00	213	\$ 42,600.00	3 hrs/meeting. 1 meeting per wk for a total of 71 meetings.
	Misc Meetings	\$ 200.00	64	\$ 12,800.00	2 hrs/meeting. 32 meetings.
				Subtotal = \$ 105,000.00	
61030 Submittals					
	Managing/Coord. Submittals				
	Admin. Support	\$ 70.00	75	\$ 5,250.00	150 submittals at 0.5 hr/submittal
	Project Engineer	\$ 200.00	150	\$ 30,000.00	150 submittals at 1 hr/submittal
	Project Engineer/Engineer	\$ 160.00	240	\$ 38,400.00	30 submittals at 8 hrs/submittal
				Subtotal = \$ 73,650.00	
61050 Design Changes					
	Change Orders per 11/26/12 Task List	\$ 150.00	300	\$ 45,000.00	Average rate of \$150/hr includes coord., design and QA/QC.
	World Oil Gas Station	\$ 150.00	16	\$ 2,400.00	Average rate of \$150/hr includes coord., design and QA/QC.
	Loma Linda Park-N-Ride Revision	\$ 150.00	60	\$ 9,000.00	Average rate of \$150/hr includes coord., design and QA/QC.
				Subtotal = \$ 56,400.00	
61040 RFI's					
	Managing/Coord. RFI's				
	Admin. Support	\$ 70.00	100	\$ 7,000.00	400 RFI's at 0.25 hr/submittal.
	Project Engineer	\$ 200.00	250	\$ 50,000.00	200 sub and non-civil discipline RFI's at 0.50 hr/RFI and 200 Civil RFI's at 0.75 hr/RFI.
	Project Engineer/Engineer	\$ 160.00	400	\$ 64,000.00	200 RFI's at 2 hr/RFI
				Subtotal = \$ 121,000.00	
61000 Project Management/Administration					
	Project Manager	\$ 220.00	100	\$ 22,000.00	5 hrs/month @ 20 months (including 3 months for closeout)
	Project Controls	\$ 105.00	200	\$ 21,000.00	10 hrs/month @ 20 months (including 3 months for closeout)
				Subtotal = \$ 43,000.00	
61020 ODC's					
	ODCs				
	Communications/Fare Collection Start Up & Testing			\$ 8,500.00	Historic \$500/month (17m x \$500/m)
				\$ 13,075.00	
				Subtotal = \$ 21,575.00	
61070 Start - Up					
	Communications and Fare Collection	\$ 175.00	280	\$ 49,000.00	
				Subtotal = \$ 49,000.00	
61080 As-Builts					
	Project Engineer	\$ 200.00	95	\$ 19,000.00	380 drawings at 0.25 hr/drawing
	Engineer	\$ 95.00	1425	\$ 135,375.00	380 drawings at 3.75 hr/drawing
	Project Engineer	\$ 200.00	40	\$ 8,000.00	40 hrs for specifications
	Technical Support	\$ 135.00	16	\$ 2,160.00	16 hrs for specifications
	Engineer	\$ 95.00	80	\$ 7,600.00	970 drawings x 0.083 hrs/drawing conversion to pdf
				Subtotal = \$ 172,135.00	
61800 SSMP Update					
		\$ 200.00	200	\$ 40,000.00	
				Subtotal = \$ 40,000.00	
				GRAND TOTAL = \$ 681,760.00	

sbX E Street Corridor BRT Project
Services during Construction - Estimate to Complete (ETC)

ACTIVITY	TOTAL	2012												2013												2014		
		Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar			
JV Construction Schedule																												
Design Review																												
Communications Installation																												
Communications System Testing and Startup																												
Fare Collection Installation																												
Fare Collection System Testing and Startup																												
Revenue Service Start																												
Task 1 - Submittal Review (WBS 61030)																												
Sr. Eng Hrs - Parsons (McCoy)	200																											
Task Travel - Qty of 1 week Trips	0																											
Task Travel - Qty of 2 week Trips	0																											
Total Monthly Labor Cost																												
Total Monthly ODC Cost																												
Task 2 - RFI Review (WBS 61040)																												
Sr. Eng Hrs - Parsons (McCoy)	40						8	8	8	8	8	8																
Task Travel - Qty of 1 week Trips	0																											
Task Travel - Qty of 2 week Trips	0																											
Total Monthly Labor Cost																												
Total Monthly ODC Cost																												
Task 3 - Start-up and Testing (WBS 61070)																												
Sr. Eng Hrs - Parsons (McCoy), Communications Testing	160																											
Sr. Eng Hrs - Parsons (McCoy), Fare Collection Testing	120																											
Task Travel - Qty of 1 week Trips	3																											
Task Travel - Qty of 2 week Trips	2																											
Total Monthly Labor Cost																												
Total Monthly ODC Cost																												
							</																					

SERVICES DURING CONSTRUCTION
Estimate Assumptions for Communications and Fare Collection System Support

Task #	Scope of Work	Assumption Notes	Total Hours
1	Submittal Reviews	Review of following submittals: Installation plans and drawings Test plans and reports Manuals As-builts (Jan 2013)	200
2	RFI Reviews and Responses	Ten (5) RFI responses at 4 hrs each	40
3	Start-Up Service Assistance & Test Witness, etc.	Five weeks of on site support for Communications and Fare Collection system testing support. Three trips of 1 week and two trips of 2 weeks of travel.	280

Notes:

1. One week travel costs - \$1,870.00
2. Two week travel costs - \$3,299.00

Item	1 Week	2 Week
Air	800	800
Hotel	360	990
meals	225	540
parking	60	144
Rental Car	300	600
gas	100	200
others	25	25
Total	1,870	3,299

Activity	WBS	Hourly Rate	Total Hours	Total Cost	Comments
Project Management/Administration	61400	\$110	24	\$2,640	12 months @ 2 hrs/month
Meetings/Field Visits	61410	\$125	24	\$3,000	
ODCs	61420	\$125		\$500	
Submittals	61430	\$125	32	\$4,000	
RFIs	61440	\$125	24	\$3,000	
Design Changes	61450	\$125	24	\$3,000	
As-Builts	61480	\$125	20	\$2,500	5 drawings @ 4 hrs/dwg.

Total	148	\$18,640
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Activity	WBS	Hourly Rate	Total Hours	Total Cost	Comments
Project Management/Administration	61500	\$100	24	\$2,400	assume 6 mths @ 4 hrs/month
Meetings/Field Visits	61510	\$75	192	\$14,400	assume 6 mnths @ 32 hrs/month
ODCs	61520			\$1,350	assume 24 trips @ 100 miles RT @ \$0.555/mile

Total	216	\$18,150
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ITEM # E11

DATE: January 9, 2013

TO: Board Chair Dick Riddell and Members of the Omnitrans Board of Directors

THROUGH: Milo Victoria, CEO/General Manager

FROM: Jennifer M. Sims, Director of Procurement

SUBJECT: AUTHORIZE AWARD OF CONTRACT PLN13-03, ALTERNATIVES ANALYSIS OF ROUTE 61 CORRIDOR

FORM MOTION

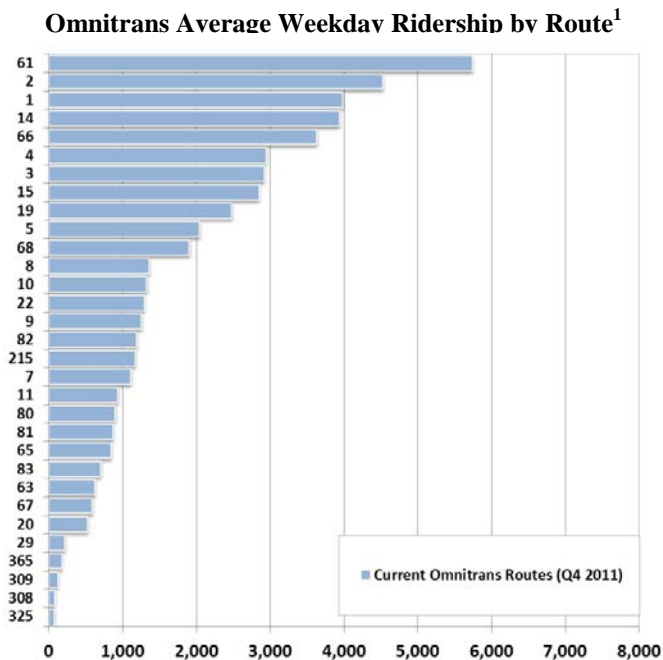
Authorize the CEO/General Manager to award Contract PLN13-03 to Parsons Transportation Group, Inc., of Pasadena, CA, for the provision of an Alternatives Analysis of the Route 61 Corridor in the amount \$1,252,983, plus a 3.27 percent Cost Allocation Plan (CAP) of \$40,973, for a total not-to-exceed amount of \$1,293,956.

This item was reviewed by the Administrative & Finance Committee at its December 10, 2012 meeting and recommended for approval.

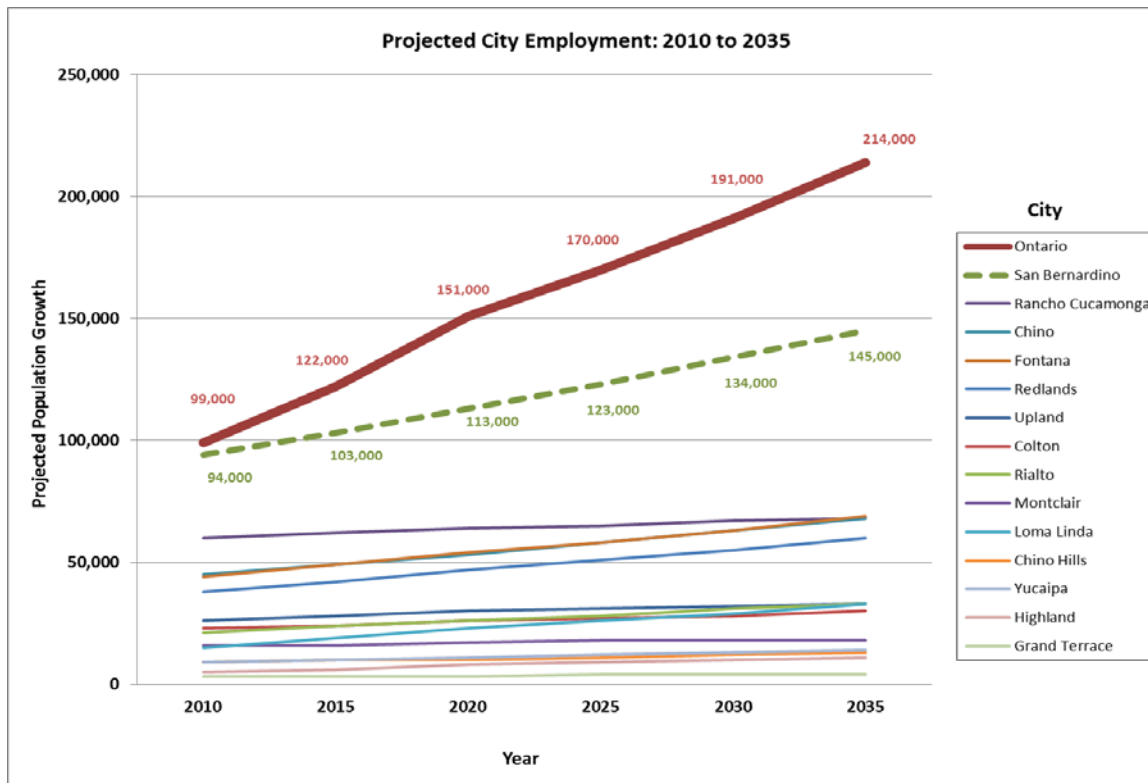
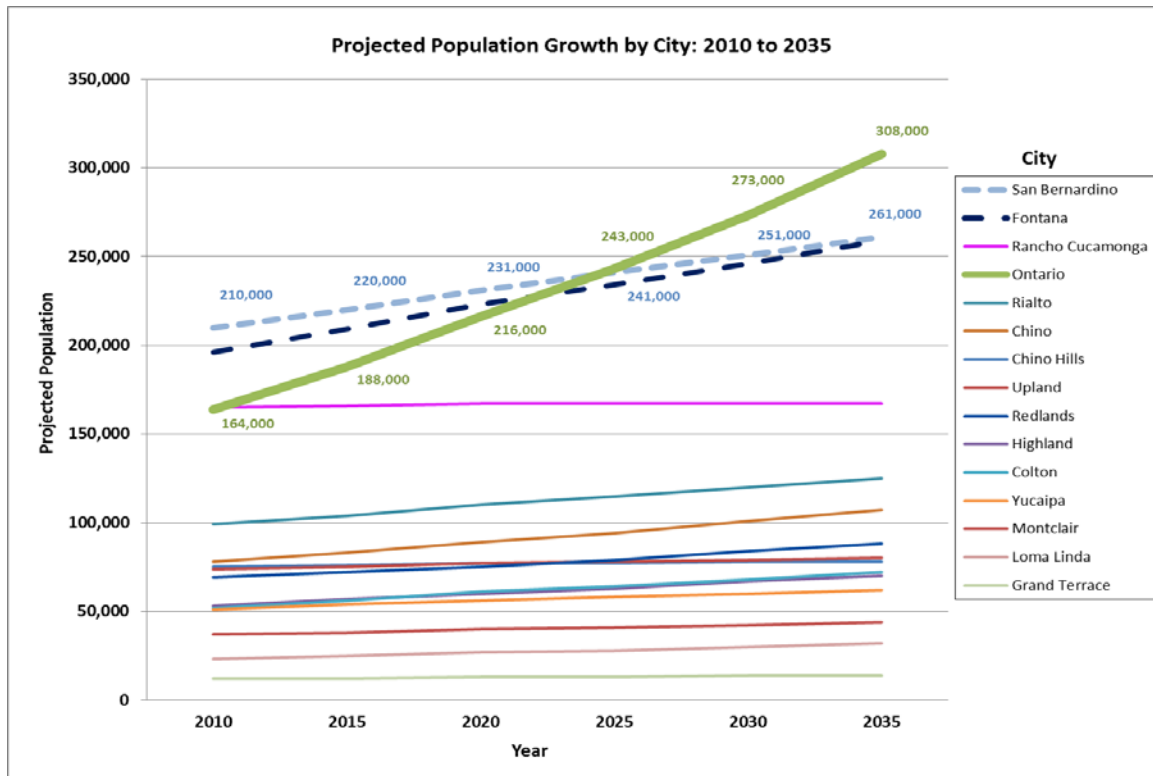
BACKGROUND

The 20.4 mile long Holt Boulevard/San Bernardino Avenue corridor (generally following Omnitrans Route 61 from the Fontana Transit Center to the Pomona Transit Center) was identified in Omnitrans' 2009 System-Wide Transit Corridor Plan for the San Bernardino Valley as a corridor with high potential for the development of major fixed route transit investments.

This corridor has the highest ridership in the Omnitrans system (5,742 average daily boardings in Quarter 4 of Calendar Year 2011), connects to two Metrolink stations (Pomona and Fontana), and passes through the two cities in the Valley with the highest projected population growth rates (Ontario and Fontana) and the City with the highest projected employment growth rate (Ontario).



Omnitrans route level data is from Calendar Year 2011, Quarter 4.



Source: Southern California Association of Governments (SCAG) projections, 2012

The Alternatives Analysis (AA) will be conducted in accordance with the new transportation legislation, Moving Ahead for Progress in the 21st Century (MAP-21), which took effect October 1, 2012. The AA process will undertake a thorough evaluation of a range of alternatives in line with Federal Transit Administration (FTA) guidance, including alternate modes of transportation, route alignments, station locations, and operating scenarios.

The outcome of the AA process will be the selection of a Locally Preferred Alternative that will result in travel time savings, increased ridership, population/employment growth, transit-oriented development opportunities, economic development, and cost effectiveness, and will qualify for federal funding.

A broad range of partner agencies and stakeholders will be involved in the process, including San Bernardino Associated Governments (SANBAG), Southern California Association of Governments (SCAG), the Ontario International Airport, and the cities of Fontana, Ontario, Rancho Cucamonga, Montclair, and Pomona.

The AA will build off of the City of Ontario's work on the Holt Boulevard Mobility & Streetscape Strategic Plan, which will be completed January 2013. The AA will also leverage the City of Fontana's efforts on the Valley Boulevard/Sierra Avenue Land Use Study, the City of Pomona's Bus Stop Improvement Program and Corridors Specific Plan, and the SCAG 2012 Sustainable Communities Strategy/Regional Transportation Plan.

SUMMARY AND ANALYSIS

On August 1, 2012, the Board of Directors authorized staff to release RFP-PLN13-03 to solicit proposals for the provision of an Alternatives Analysis of the Route 61 Corridor. Public notices were published in a local newspaper of general circulation. Outreach was conducted through Omnitrans' PlanetBids website to increase the number of firms notified of the available solicitation. A pre-proposal conference was held August 13, 2012, and attended by thirty prime and sub-consultant company representatives.

Three proposals were received by the scheduled solicitation deadline of August 29, 2012. All proposals were deemed responsive and responsible and the firms were invited for presentations and interviews.

Omnitrans' evaluation committee, comprised of staff from the Planning and Procurement Departments and outside stakeholders, which included representatives from the cities of Ontario, Fontana and Rancho Cucamonga and the Los Angeles Metropolitan County Transportation Authority, completed an assessment of the proposals based upon the criteria set forth in the Request for Proposals. A total of 100 points were possible.

The following firms are ranked from highest score to lowest score, as shown in the following table:

Criteria	Points Possible	Parsons Transportation Group, Inc.	Parsons Brinckerhoff, Inc.	STV Incorporated
Proposal Price		\$1,252,983.00	\$1,299,304.07	\$1,272,267.00
Project Understanding / Approach	50	47.2	47.7	45.2
Project Staff / Organization	20	18.8	17.7	16.3
Interview / Presentation	10	9.3	8.2	6.7
References	10	8.8	8.7	8.8
Technical Score:	90	84.1	82.3	77.0
Price	10	10	9.6	9.9
Total Score:	100	94.1	91.9	86.9

Parsons Transportation Group, Inc., and Parsons Brinckerhoff, Inc., were determined to be the most technically qualified. Both firms were invited to participate in a clarification/negotiation session with Omnitrans' evaluation representatives and both firms were subsequently requested to provide a Best & Final Offer (BAFO).

The BAFOs resulted in the following pricing:

Parsons Transportation Group:	\$1,252,983.00
Parsons Brinckerhoff:	\$1,268,021.75

Using the BAFO pricing, the evaluation scores were updated as follows:

Criteria	Points Possible	Parsons Transportation Group	Parsons Brinckerhoff
Project Understanding / Approach	50	47.2	47.7
Project Staff / Organization	20	18.8	17.7
Interview / Presentation	10	9.3	8.2
References	10	8.8	8.7
Price	10	10.0	9.9
Total	100	94.1	92.2

As Parsons Transportation Group, Inc., received the highest score and has met the criteria of the RFP, staff recommends award to Parsons Transportation Group, Inc. The price of \$1,252,983 is considered fair and reasonable as it is the lowest price offered during a competitive solicitation and came in \$47,017 less than the Independent Cost Estimate of \$1,300,000.

FUNDING SOURCES

Funding for this project is as follows:

AGENCY	FUNDING SOURCE	PROJECT NAME	AMOUNT
FTA	FTA 5339 Alternatives Analysis Grant	Holt Boulevard/4 th Street Corridor Alternatives Analysis	\$ 850,000
Omnitrans	LAIF – LTF		\$ 450,000
Total:			\$1,300,000

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

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

CONCLUSION

If the project is not approved for the Alternatives Analysis of Route 61, the highest-ridership corridor in Omnitrans' system, Omnitrans will forfeit FTA funding for this project and the corridor cannot be developed as an enhanced transit corridor, such as a bus rapid transit or other mode. As a result, bus service on the Route 61, which services an area with the highest projected population growth rates, will lose its ability to maintain on-time performance due to the increased traffic congestion, and additional resources will have to be invested to maintain the current level of local bus service.

MV:JS:AR:CV

OMNITRANS

PROFESSIONAL SERVICES CONTRACT

ALTERNATIVES ANALYSIS OF
ROUTE 61 CORRIDOR
PLN13-03

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CONTRACT FOR PROFESSIONAL SERVICES

This **Agreement** is made as of the _____ day of _____, 20__, by and between, (**Omnitrans**) and Parsons Transportation Group ("**Consultant**").

Whereas, Omnitrans desires to obtain professional services as further defined in this Agreement and has issued a Request for Proposals (RFP), dated August 1, 2012, and all of its Amendments, Appendices, Exhibits and Attachments of which are hereby made a part of this Agreement as Enclosure (1); and

Whereas, the Consultant desires to furnish such services and submitted a written proposal, dated September 14, 2012, including all of its Amendments, Appendices, Exhibits and Attachments and the Best & Final Offer dated November 9, 2012, including all of its Amendments, Appendices, Exhibits and Attachments which are hereby incorporated and made a part of this Agreement by this reference.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. RENDITION OF SERVICES

The Consultant agrees to provide professional design services to Omnitrans in accordance with the terms and conditions of this Agreement.

2. SCOPE OF SERVICES

The scope of the Consultant's services shall consist of providing an Alternatives Analysis of Route 61 (Holt Boulevard/San Bernardino Avenue) Corridor as generally described in RFP-PLN13-03.

2.1 Consultant's Work

Omnitrans contracts' with Consultant as an independent contractor to perform all design work necessary or incidental to complete the work for the Project in strict accordance with and reasonably inferable from the Contract Documents. Consultant shall perform its work (Consultant's Work) under the general direction of Omnitrans and in accordance with other Contract Documents and shall be solely responsible for its employees, Lower Tier Consultants, agents and means and methods of design.

2.2 Conflicts

In case of any inconsistency, conflict, or ambiguity among the Contract Documents, the Documents shall govern in the order in which they are listed above.

2.3 Extent of Agreement

This Agreement is solely for the benefit of the parties and represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral.

2.4 Day

Unless otherwise indicated, the term “Day” shall mean working day.

2.5 Laws

“Laws” are any applicable laws, rules, regulations, ordinances, codes, or orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

2.6 Use of Consultants

Consultant shall not Subcontract any services to be performed by it under this Agreement without the prior written approval of Omnitrans, except for service firms engaged in drawing, reproduction, typing and printing. Consultant shall be solely responsible for reimbursing any Consultants and Omnitrans shall have no obligation to them.

Consultant shall pay any Lower Tier Consultants approved by the Agency for work that has been substantially performed no later than thirty (30) days from the date of Consultant’s receipt of partial payments by the Agency. Within sixty (60) days of satisfactory completion of all work required of the Lower Tier Consultants, Consultant shall release any retainage payments withheld to the Lower Tier Consultants. Omnitrans may require Consultant to provide documentation satisfactory to Omnitrans of Consultant’s compliance with this requirement as a condition of final payment and release of contract retentions, if any.

3. **CONSULTANT’S RESPONSIBILITIES**

3.1 Lower Tier Consultants

Consultant shall bind all Lower Tier Consultants to the articles of this Agreement indicated by an asterisk (*) before the paragraph number.

*3.2 Responsibilities

Consultant shall furnish all of the labor, materials, equipment, and services, including but not limited to, competent supervision, shop drawings, samples, tools, and temporary appurtenances as are necessary for the proper performance of Consultant’s Work in strict accordance with and reasonably inferable from the Contract Documents.

Consultant shall provide a list of proposed Lower Tier Consultants and major suppliers to Omnitrans for approval, and shall be responsible for taking field dimensions, providing tests, obtaining required permits, and affidavits, ordering of materials and all other actions as required to meet the Schedule of Consultant’s Work.

*3.2.1 Performance

The standard of care applicable to the Services will be the degree of skill and diligence normally employed by others performing the same or similar services. Consultant shall re-perform any Services not meeting this standard without additional compensation. If such deficiencies are not corrected in a timely manner, Omnitrans may cause the same to be corrected and deduct costs incurred from Consultant's compensation.

3.3 Inconsistencies and Omissions

Should inconsistencies or omissions appear in the Contract Documents, it shall be the duty of Consultant to notify Omnitrans in writing within three (3) working days of discovery by Consultant. Upon receipt of notice, Omnitrans will instruct Consultant as to the measures to be taken, and Consultant shall comply with Omnitrans instructions.

3.4 Submittals

Consultant shall be responsible to Omnitrans for the accuracy and conformity with the Contract Documents of shop drawings, samples and other submittals that pertain to Consultant's Work. Approval of submittals by Omnitrans shall not be deemed to authorize deviations or substitutions from the requirements of the Contract Documents.

3.5 Temporary Services

Consultant shall furnish all temporary services, offices, storage facilities.

*3.6 Coordination

Consultant shall:

- A. Cooperate with Omnitrans and all others whose work may interfere with Consultant's Work;
- B. Specifically note and immediately advise Omnitrans of any such interference with Consultant's Work; and
- C. Participate in the preparation of coordination drawings and work schedules in areas of congestion.

3.7 Consultant's Representative

Consultant's Representative is designated in the Agreement and is agreed to by Omnitrans. This representative shall be the only person to whom Omnitrans shall issue instructions, orders, or directions, except in an emergency. Consultant shall notify Omnitrans in writing if it intends to change its representative which shall be subject to Omnitrans' approval.

*3.8 Permits, Fees, License, and Taxes

Consultant shall give timely notices to authorities pertaining to Consultant's Work, and shall be responsible for all permits, fees, licenses, assessments, inspections, testing and taxes necessary to complete Consultant's Work in accordance with the Contract Documents.

Consultant shall deliver required licenses, certificates of inspection, testing, or approval to Omnitrans.

*3.9 Assignment of Consultant's Work

Consultant shall not assign the whole or any part of Consultant's Work without prior written approval of Omnitrans, which approval will not be unreasonably withheld.

3.10 Layout Responsibilities and Levels

Consultant shall be responsible for laying out Consultant's Work, shall protect and preserve the established reference points, and shall make no changes or relocations without the prior written approval of Omnitrans. Consultant shall report to Omnitrans whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points. Consultant's Work shall be executed in accordance with the locations, lines and grades specified or shown on the drawings, subject to such modifications as Omnitrans may require.

*3.11 Substitutions

No substitutions shall be made in Consultant's Work unless permitted in the Contract Documents, and only then upon Consultant first receiving written approval from Omnitrans of Consultant's recommendation for substitutions. Consultant shall hold Omnitrans harmless from costs or liabilities incurred as a result of such substitutions, whether or not Consultant has obtained approval.

*3.12 Work for Others

Until final completion of the Project, Consultant agrees not to perform any work directly for Stakeholders or any tenants, or deal directly with Stakeholders representatives in connection with the Project, unless otherwise directed in writing by Omnitrans.

*3.13 Publicity

Consultant shall not disclose the nature of Consultant's Work on the Project or engage in any other publicity or public media disclosures with respect to this Project without the prior written consent of Omnitrans.

3.14 Omnitrans Right to Perform

If Consultant fails to perform its work fully, Omnitrans reserves the right on three (3) working days' written notice to arrange for others to perform the remaining portion of Consultant's Work and charge the cost of performing this work to Consultant.

*3.15 Federal, State And Local Laws

Consultant agrees to be bound by, and at its own cost comply with, all Laws applicable to Consultant's Work, including but not limited to, equal employment opportunity, affirmative action, minority business enterprise, women's business enterprise, disadvantaged business

enterprise, applicable OSHA and other safety Laws and all other Laws with which Omnitrans must comply. Consultant shall be liable to Omnitrans for all loss, cost and expense attributable to any acts of commission or omission by Consultant, its employees, Lower Tier Consultants, suppliers and agents resulting from the failure to comply with Laws, including, but not limited to, any fines, penalties or corrective measures.

a. Compliance with Federal, State and Local Laws

Consultant Firm warrants that in the performance of this Contract it shall comply with all applicable Federal, state, and local laws and ordinances and all lawful orders, rules and regulations (“Laws”) thereunder. If the performance of the Contract would violate any Laws, Consultant Firm agrees to interpret, apply and/or amend the contract so that the Contract is deemed compliant with all Laws.

b. Federal Laws and Regulations

Federal laws, regulations, policies, and related administrative practices applicable to this Contract on the date the Contract was executed may be modified from time to time.

Consultant Firm agrees that the most recent of such Federal requirements shall govern the administration of this Contract at any particular time, unless there is sufficient evidence in the Contract of a contrary intent.

Likewise, new Federal laws, regulations, policies, and administrative practices may be established after the date the Contract has been executed and may apply to this Contract.

c. State or Territorial Law and Local Law

Except to the extent that a Federal statute or regulation preempts State or territorial law, nothing in the Contract shall require the Consultant Firm to observe or enforce compliance with any provision thereof, perform any other act, or do any other thing in contravention of any applicable State or territorial law.

- 1) If any of the provisions of the Contract violate any applicable State or territorial law, or if compliance with the provisions of the Contract would require the Recipient to violate any applicable State or territorial law, the Consultant Firm agrees to notify Omnitrans immediately, in writing, in order that Omnitrans and the Consultant Firm may make appropriate arrangements to proceed with the Specification and Scope of Work as soon as possible.

*3.16 Royalties, Patents, and Copyrights

Consultant shall pay all royalties and license fees which may be due on the inclusion of any patented or copyrighted materials, methods, or systems selected by Consultant and incorporated in Consultant’s Work. Consultant shall defend, indemnify, and hold Omnitrans harmless from all suits or claims for infringement of any patent rights or copyrights arising out of such selection. Omnitrans agrees to defend, indemnify, and hold Consultant harmless

from any suits or claims of infringement of any patent rights or copyrights arising out of any patented or copyrighted materials, methods or systems specified by Omnitrans.

***3.17 Labor Provisions for Non-Construction Bids Over \$2,500.00**

The requirements of the clauses contained in 29 CFR § 5.5 (b) are applicable to any contract subject to the overtime provisions of the contract work hours and safety standards act and not to any of the other statutes cited in 29 CFR § 5.1.

- 1) The Consultant Firm or Lower Tier Consultant shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, and drivers, working on the contract.
- 2) 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.
- 3) The records to be maintained under this clause shall be made available by the Consultant Firm or Lower Tier Consultant for inspection, copying, or transcription by authorized representatives of the of the government including but not limited to: the FTA, the U.S. DOT, or the Department of Labor (DOL), State of California, County of San Bernardino, any California municipality or joint powers authority or special district and the Consultant Firm or Lower Tier Consultant will permit such representatives to interview employees during working hours on the job.

3.18 Overtime Requirements

- 1) No Consultant Firm or Lower Tier Consultant contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any work week in which he or she is employed on such work to work in excess of forty hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such work week.

3.19 Violation; Liability for Unpaid Wages; Liquidated Damages

- 1) In the event of any violation of the requirements of 29 CFR § 5.5 (b)(1), the Consultant Firm and any Lower Tier Consultant responsible therefore shall be liable for the unpaid wages.
- 2) In addition, such Consultant Firm and Lower Tier Consultant shall be liable to the United States for liquidated damages.
- 3) Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of 29 CFR § 5.5 (b)(1) in the sum of \$10 for each calendar day on which such

individual was required or permitted to work in excess of the standard work week of forty hours without payment of the overtime wages required by 29 CFR § 5.5 (b)(1).

3.20 Withholding For Unpaid Wages and Liquidated Damages

The FTA or the recipient 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 moneys payable on account or work performed by the Consultant Firm or Lower Tier Consultant under any such contract or any other federal contract with the same prime Consultant Firm, or any other federally-assisted contract subject to the contract work hours and safety standards act, which is held by the same prime Consultant Firm, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or Lower Tier Consultant for unpaid wages and liquidated damages as provided in the clause set forth at 29 CFR § 5.5 (b)(2).

- 1) Consultant must include these clauses in any Lower Tier subcontracts.
- 2) The Consultant Firm shall be responsible for compliance by any Lower Tier Consultant with clauses above.

3.21 As-Built Documents

Consultant shall maintain in a safe place at the Project site one (1) record copy of all as-built documentation. Upon completion of Consultant's Work, these as-built documents shall be delivered to Omnitrans Technical Representative.

*3.22 Reuse of Documents

Consultant shall not have any title or rights in any of the Drawings, Specifications or other documents (or any copies, including electronic copies thereof) prepared by or bearing the seal of Omnitrans or any of its Consultants and shall not reuse any of such documents on any other project without the written consent of Omnitrans. This paragraph shall survive any termination of this Agreement.

3.23 Copies of Data

One legible copy each of all laboratory, field, or other notes, log book pages, and technical data, computations, designs and other instruments of service prepared under the terms of this Agreement shall be delivered by Consultant to Omnitrans upon completion of the Services.

3.24 Monthly Progress Report

Consultant shall provide, if requested by Omnitrans a monthly progress report to Omnitrans in a form and covering information as required by Omnitrans.

*3.25 Observation of the Services

Omnitrans reserves the right, but not the obligation, at all reasonable times to inspect or otherwise evaluate the Services performed or being performed by Consultant and

the premises on which it is being performed. If any inspection or evaluation is made by Omnitrans on the premises of Consultant, Consultant shall provide all reasonable facilities and assistance for Omnitrans safety and convenience in the performance of the inspection. Such inspection or evaluation will not relieve Consultant of its obligations under this Agreement.

3.26 Working Files

Consultant shall maintain files containing all deliverable documentation including calculations, assumptions, interpretations of regulations, sources of information, and other raw data required in the performance of this Agreement. Consultant shall provide copies of the information contained in its working files to Omnitrans upon request of Omnitrans.

*3.27 Communications with Stakeholders

All of Consultant's written or verbal communication with or to Stakeholders, or with federal, state, or local agencies, relative to the Services under this Agreement must be through or with the knowledge of Omnitrans.

*3.28 Safety

Consultant is solely responsible for the health and safety of its own employees and Lower Tier Consultants. Consultant shall comply with any Project health and safety plan established by Omnitrans. Consultant shall comply with all applicable federal, state and local laws and regulations related to health and safety.

*3.29 Drug Policy

If the Services require the Consultant's personnel to be present at the Project site, Consultant shall certify to Omnitrans, prior to entering into this Agreement (or at such time as that this Agreement is modified to include Services requiring the Consultant's personnel to be present at the Project site), that it implements a drug policy which meets Omnitrans minimum standards for a drug-free workplace, which standards are incorporated into the Agreement by this reference ("Standards").

Omnitrans may conduct reasonable searches, including random searches, of Consultant's employees and employees of its Lower Tier Consultants and suppliers and may require and receive the results of a 10-panel drug screen and blood alcohol tests for any employee of the Consultant or its Lower Tier Consultants. Any employee of Consultant, its Lower Tier Consultants or suppliers found to possess or be under the influence of an article prohibited by the Standards, or refusing to consent to a reasonable search by Omnitrans may, in Omnitrans' sole discretion, be immediately removed from the Project site and denied future access. Consultant agrees to enforce its drug policy and to bind its Lower Tier Consultants to its policy and to the provisions of this paragraph. Any violation of the requirements of this paragraph may be grounds for withholding payment to Lower Tier Consultants or for

termination for default pursuant to Paragraph 10.7. Nothing in the paragraph shall require Omnitrans to undertake testing or searches.

4. SCHEDULE AND TIME OF COMPLETION

4.1. Agreement Performance Period

The Agreement will remain in effect until all services required under outstanding Work Directives are completed or terminated.

4.2. Time of Performance

Time of performance is of great importance to both parties, and they mutually agree to see to the performance of their respective work and the work of their Consultants so that the entire Project may be completed in accordance with the Contract Documents and the Schedule of Consultant's Work.

4.3. Schedule Obligations

Both Omnitrans and Consultant shall be bound by the Schedule of Consultant's Work. Consultant shall provide Omnitrans with any requested scheduling information for Consultant's Work. Consultant recognizes that changes will be made in the Schedule of Consultant's Work and agrees to comply with such changes. The Schedule of Consultant's Work and all subsequent changes will be submitted to Consultant in advance of the required performance.

4.4. Priority of the Work

Omnitrans shall have the right to decide the time, order, and priority in which the various portions of the Work shall be performed and all other matters relative to the timely and orderly conduct of Consultant's Work. Consultant shall commence work on the date designated in Schedule of Consultant's Work, and if interrupted for any reason, Consultant shall resume work within two (2) working days from Omnitrans notice to do so.

4.5. Delay

If the progress of Consultant's Work is substantially delayed without the fault or responsibility of Consultant, then the time for Consultant's Work shall be extended by Agreement Change Order to the extent obtained by Omnitrans under the Contract Documents, and the Schedule of Work shall be revised accordingly. It shall be a condition precedent to any right of Consultant to recover any damages for delay that Omnitrans first recover such damages from Stakeholders, or other person or entity liable for the delay. The amount that Consultant may recover from Omnitrans shall be limited to the amount actually recovered by Omnitrans on behalf of Consultant.

5. OWNERSHIP OF WORK

All reports, designs, drawings, plans, specifications, schedules and other materials prepared, or in the process of being prepared, for the services to be performed by Consultant shall be

and are the property of Omnitrans. Omnitrans shall be entitled to access to and copies of these materials during the progress of the work. Any such materials remaining in the hands of the Consultant or in the hands of any Consultant upon completion or termination of the work shall be immediately delivered to Omnitrans. If any materials are lost, damaged, or destroyed before final delivery to Omnitrans, the Consultant shall replace them at its own expense and the Consultant assumes all risks of loss, damage, or destruction of or to such materials. The Consultant may retain a copy of all material produced under this Agreement for its use in its general business activities.

6. CONFIDENTIALITY

Any Omnitrans materials to which the Consultant has access or materials prepared by the Consultant during the course of this Agreement ("confidential information") shall be held in confidence by the Consultant, who shall exercise all reasonable precautions to prevent the disclosure of confidential information to anyone except the officers, employees and agents of the Consultant as necessary to accomplish the rendition of services set forth. Consultant shall not release any reports, information of promotional materials prepared in connection with this Agreement, whether deemed confidential or not, without the approval of Omnitrans CEO/General Manager.

7. KEY PERSONNEL

It is understood and agreed by the parties that at all times during the term of this Agreement that the qualified key personnel shall serve as primary staff personnel of Consultant to undertake, render and oversee all of the services under this Agreement. Consultant shall submit a list of key personnel for its Services, including a designated project manager, if requested by Omnitrans, and shall not change or reassign any of the designated key personnel without the written approval of Omnitrans. Omnitrans reserves the right to reject key personnel that does not in its opinion meet the Project requirements.

8. CHANGES IN CONSULTANT'S WORK

8.1 Agreement Change Orders

When Omnitrans orders in writing, Consultant, without nullifying this Agreement, shall make any and all changes in Consultant's Work which are within the general scope of this Agreement. Any adjustment in the Agreement Price or Schedule of Consultant's Work shall be set forth in an Agreement Change Order. No adjustments shall be made for any changes performed by Consultant that have not been ordered by Omnitrans. An Agreement Change Order is a written instrument prepared by Omnitrans and signed by both parties stating their agreement upon the change in Consultant's Work.

8.2 Adjustments in Agreement Price

If an Agreement Change Order requires an adjustment in the Agreement Price, the adjustment shall be established by one of the following methods:

- A. Mutual agreement on a lump sum with sufficient information to substantiate the amount;
- B. Unit prices already established in the Contract Documents or, if not established by the Contract Documents, then established by mutual agreement for this adjustment; or
- C. A mutually determined cost plus a jointly acceptable allowance for overhead and profit.

8.3 Substantiation of Adjustment

- A. If Consultant does not respond promptly or disputes the method of adjustment, the method and the adjustment shall be determined by Omnitrans on the basis of reasonable expenditures and savings of those performing the Consultant's Work attributable to the change. Consultant shall maintain for Omnitrans review and approval an appropriately itemized and substantiated accounting of the following items attributable to the Agreement Change Order: labor costs, including Social Security, health, welfare, retirement and other fringe benefits as normally required, and state workers' compensation insurance;
- B. Costs of materials, supplies and equipment, whether incorporated in Consultant's Work or consumed, including transportation costs;
- C. Costs of renting machinery and equipment other than hand tools;
- D. Costs of bond and insurance premiums, permit fees and taxes attributable to the change; and
- E. Costs of additional supervision and field office personnel services necessitated by the change.

8.4 Obligation to Perform

Consultant shall not perform changes in Consultant's Work until an Agreement Change Order has been executed unless directed in writing by Omnitrans to perform.

9. **RESPONSIBILITY; INDEMNIFICATION**

9.1 Consultant's Performance

Omnitrans and Omnitrans Stakeholders are herein identified as "the Indemnified Parties." To the fullest extent permitted by law, Consultant shall defend, indemnify and hold harmless the Indemnified Parties and their officers, directors, subsidiaries, affiliates, agents, employees and other Consultants, from and against all claims, damages, loss and expenses, including but not limited to attorneys' fees, costs and expenses arising out of or resulting from the performance of Consultant's Work, provided that any such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself) including resulting loss of use), caused in whole or in part by any act or omission of Consultant or anyone directly or indirectly employed by Consultant or for anyone for whose acts Consultant may be liable, regardless of

whether it is caused in part by an indemnified party. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Article 9.1.

9.2 No Limitation on Liability

In any and all claims against any of the Indemnified Parties by any employee of Consultant, anyone directly or indirectly employed by Consultant or anyone for whose acts Consultant may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Consultant under workers' compensation acts, disability benefit acts or other employee benefit acts.

10. **INSURANCE**

10.1. Workers' Compensation

If Consultant employs any person to perform work in connection with this Agreement, Consultant shall procure and maintain at all times during the performance of such work Workers' Compensation Insurance in conformance with the laws of the State of California and Federal laws where applicable. Employers' Liability Insurance shall not be less than \$1,000, 000 per accident or disease for all employees engaged in the Services. Prior to commencement of work under this Agreement by any such employee, Consultant shall deliver to Omnitrans a Certificate of Insurance that shall stipulate that 30 days' advance written notice of cancellation, non-renewal or reduction in limits shall be given to Omnitrans.

10.2. Commercial General Liability Insurance

Consultant shall also procure and maintain at all times during the performance of this Agreement Commercial General Liability Insurance (including automobile operation) covering Consultant and Omnitrans for liability arising out of the operations of Consultant and any Lower Tier Consultants. The policy(ies) shall include coverage for all vehicles, owned, non-owned and hired, on, or off Omnitrans premises, used by or on behalf of Consultant on the performance of work under this Agreement. A separate Automobile Insurance Liability Policy with coverage at \$1,000,000 is acceptable. The policy(ies) shall be subject to a limit for each occurrence of \$1,000,000 and \$2,000,000 aggregate, naming as an additional insured, in connection with Consultant's activities, Omnitrans, and its directors, officers, employees and agents. The Insurer(s) shall agree that its policy(ies) is Primary Insurance and that it shall be liable for the full amount of any loss up to and including the total limit of liability without right of contribution from any other insurance covering Omnitrans. Prior to commencement of work under this Agreement by any such employee, Consultant shall deliver to Omnitrans a Certificate of Insurance that shall stipulate that 30 days' advance written notice of cancellation, non-renewal or reduction in limits shall be given to Omnitrans.

Inclusion of Omnitrans as an additional insured shall not in any way affect its rights as respects to any claim, demand, suit, or judgment made, brought, or recovered against

Consultant. The policy shall protect Consultant and Omnitrans in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the Insurer's liability as set forth in the policy beyond the amount or amounts shown or to which the Insurer would have been liable if only one interest had been named as an insured.

10.3. Professional Liability Insurance

Consultant shall also maintain Professional Liability Insurance covering Consultant's performance under this Agreement with a limit of liability of \$5,000,000 for any one claim. This insurance shall be applicable to claims arising from the work performed under this Agreement. Prior to commencing work under this Agreement, Consultant shall furnish to Omnitrans a Certificate of Insurance, or certified copy of the insurance policy if requested, indicating compliance with the requirements of this paragraph. This certificate or policy shall further stipulate that thirty (30) days advance written notice of cancellation, non-renewal or reduction in limits shall be given to Omnitrans.

*10.4. Waiver of Subrogation

Consultant waives all rights against the Indemnified Parties as defined in Article 9.1. and any of their respective Consultants, Consultants, and agents and employees, for injury, death, or damages caused by risks covered by insurance provided in Paragraph 1, except such rights as it may have to the insurance proceeds.

If the policies of insurance referred to in this Article require an endorsement to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed.

10.5. Number of Policies

Commercial General Liability Insurance and other insurance may be arranged under a single policy for the full limits required or by a combination of underlying policies and by a Following Form Excess or Umbrella Liability Policy.

10.6. Cancellation, Renewal, and Modification

Consultant shall maintain in effect all insurance coverage required under this Agreement at Consultant's sole expense and with insurance companies acceptable to Omnitrans. The policies shall contain a provision that coverage will not be canceled or non-renewed reduced in limits or coverage until at least thirty (30) days' prior written notice has been given to Omnitrans.

10.7. Continuation of Coverage

Consultant shall continue to carry Completed Operations liability insurance for at least two (2) years after Substantial Completion of the Work. Consultant shall furnish Omnitrans evidence of such insurance at final payment and one (1) year thereafter.

11. COMPENSATION

The Consultant agrees to perform the services specified in the Statement of Work.

It is expressly understood and agreed that in no event shall Consultant be compensated in an amount greater than the amount specified for any individual Task.

11.0 Manner of Payment

- A. Consultant shall submit monthly invoices stating the contract and purchase order numbers, detailing the services performed during the billing period, as described in the milestone payment schedule and provide supporting data.
- B. Lump sum payments will be based on the milestones set forth in the milestone schedule. The value paid for each milestone will be based on the percentage of completion for the milestone.
- C. For capital projects, **Omnitrans pays invoices on the first Thursday of each month.**
 - 1) Subject to verification of receipt, accuracy, and quality of orders, invoices received will be paid on the first Thursday of the month after the received date of an invoice.
 - 2) If received within the 10 days prior to the first Thursday of the month, payment may be delayed to the following month.

CONSULTANT COMPENSATION SCHEDULE

- A. For proper performance of the Work, Omnitrans shall compensate Consultant in accordance with the Schedule of Values. Except as expressly indicated to the contrary, prices include all allowances; local, state, and federal sales and use taxes; any import or export duties (regardless of point of origin); contingencies; and costs of all insurance, overhead and profit. For proper performance of all defined tasks in the Scope of Work, Consultant shall be paid the following amounts:

Task 1- Alternatives Analysis Package	\$148,441
Task 2 - Detailed Definition of Alternatives	\$190,401
Task 3 – Ridership Analysis/Patronage Forecasting	\$144,299
Task 4 – Environmental Considerations	\$81,270
Task 5 – Final Alternatives Definition & Analysis	\$214,315
Task 6 - Public Involvement	\$183,343
Task 7 – Financial Plan	\$114,476
Task 8 – Selection of LPA and AA Final Report	\$158,439
Task 9 – Advance PE and Product Development	<u>\$17,990</u>

Total Contract Value Not To Exceed: \$1,252,983

B. Invoicing Instructions and Requirements:

- 1) Consultant shall invoice Omnitrans monthly based upon:
 - a. Work actually completed during invoice period;
 - b. Percentage of the Work completed to date;
 - c. Based on the milestones above and the Schedule of Values
- 2) Invoices shall be separately numbered and sent to Omnitrans at the address listed below and shall include the following information:

Bill to: Omnitrans
Attention: Rohan Kuruppu
Omnitrans Tax ID: No. 95-3035112
Billing Address: 1700 West 5th Street, San Bernardino CA 92411
Omnitrans' Contracts Representative: Christine Van Matre,
Contract Administrator
Contract Number:
Purchase Order Number:

- 3) The Consultant is required to submit a Conditional Waiver and Release Upon Partial Payment with each invoice. The Consultant must submit the Consultant Final Release with the final invoice.

- C. In no event shall Omnitrans be obligated to make any payment on account of the Services which would cause the total amount paid to Consultant to exceed that not-to-exceed amount set forth in Section 1 above unless the Contract is amended through a Change Order.

Invoices not conforming to these instructions may be returned for correction

**CONDITIONAL WAIVER AND RELEASE UPON
PARTIAL PAYMENT**

Upon receipt by the undersigned of a check from OMNITRANS in the sum of _____ payable to _____ [hereinafter referred to as Consultant(s)] for Invoice No. _____, for the period covering _____ for worked performed by the Consultant(s) when the check has been properly endorsed and has been paid by the bank upon which it is drawn, this document shall become effective to release any liens, stop notice, or bond rights the undersigned has on the job of Alternatives Analysis of the Route 61 Corridor.

This release covers a partial payment for the invoice referenced above for labor, services, equipment, and/or material furnished to OMNITRANS through _____ only and does not cover any retentions retained before or after the release date; extras or items furnished before the release date for which payment has not been received; extras or items furnished after the release date. Rights based upon work performed or items furnished under a written change order which has been fully executed by the parties prior to the release date are covered by this release unless specifically reserved by the claimant in this release. This release of any mechanic's lien, stop notice or bond right shall not otherwise affect these contract rights, including rights between parties to the contract based upon a rescission, abandonment, or breach of the contract, or the right of the undersigned to recover compensation for furnished labor, services, equipment, or material covered by this release if that furnished labor, services, equipment, or material was not compensated by the partial payment.

Dated: _____

Name of Company

By: _____

(Title)

NOTE: Where the claimant is required to execute a waiver and release in exchange or, or in order to induce payment of, a partial or progress payment and the claimant is not, in fact, paid in exchange for the waiver and release or a single payee check or joint payee check is given in exchange for the waiver and release, the waiver and release shall follow substantially the form set forth above. This form of release complies with the requirements of Civil Code Section 3262(d) (1).

FINAL CONDITIONAL WAIVER AND RELEASE FORM

STATE OF _____

COUNTY OF _____

_____ a corporation of the State of _____, whose address is _____ (hereinafter called "Consultant"), in consideration of the receipt of the sum¹ _____ and other good and valuable considerations, does hereby release and forever discharge _____ (hereafter called Omnitrans), their successors, affiliates, and assign, of and from any and all actions, causes of actions, debts, dues, accounts, covenants, agreements, judgments, claims and demands of whatsoever nature or character, in contract, tort or otherwise, which said Consultant now has or ever has had against either of them, their successors, and assign, including, but not limited to, any actions, causes of actions, debts, accounts covenants, agreements, judgments, claims and demands which shall or may arise out of, or be incidental to, payment for Work undertaken or done and/or pursuant to that certain contract entered into by and between Omnitrans and Consultant as of the _____ day of _____, 20____,

As amended and supplemented, for _____ services Performed under Subcontract No.: _____

Consultant hereby represents and warrants all bills for labor, materials, lands, licenses, and other expenses for which Omnitrans might be sued for or for which a lien might be filed, have been fully satisfied and paid, and upon receipt of the final payment under said Subcontract, and in consideration thereof, pursuant to and in accordance with the provisions of said Subcontract, Consultant hereby covenants and agrees, for himself, his successors and assigns, that he and they, and each of them, shall and will defend and same harmless Omnitrans and from and against any and all suits, actions, claims, liens, or demands of laborers, mechanics, material men or others relating to payment for Work undertaken or done under and /or pursuant to said Subcontract.

¹ Insert the total amount payable (amount paid to date plus any outstanding invoices).

Consultant further hereby covenants and agrees, for himself, his successors and assigns, that he and they, and each of them, shall and will defend, indemnify and save harmless Omnitrans from any price or cost reduction effected, which may result from: (a) cost or pricing data submitted by Consultant or its Consultants which is not, specifically but without limitation, accurate, current or complete as of the date submitted by Consultant; (b) cost or pricing data furnished by Consultant that was not complete, accurate or current as certified in the Certificate of Current Cost or Pricing Data; or (c) the failure by Consultant or its Lower Tier Consultants to disclose and consistently follow applicable cost accounting practices and standards or otherwise comply with pertinent sections of the FAR, FTA 4220.1F, OMB-A102, the applicable agency supplements thereto, if any, and regulations promulgated by the Cost Accounting Standards Board. Subcontract shall indemnify Omnitrans for any cost incurred and any payments made by Omnitrans resulting from false claims submitted by the Consultant under the Lower Tier Consultant or as a result of Lower Tier Consultant's misrepresentation of fact or fraud to which this indemnification obligation applies.

IN WITNESS WHEREOF, Consultant has caused these present to be duly executed this _____ day of _____, 20____.

By _____

 Title

ATTEST²

 Secretary

2 Attest by the Secretary is required for corporate Consultant only. It is not required for Consultants organized as individuals or partnerships.

11.1 Schedule of Values

As a condition to payment, a schedule of values allocating contract values based on the scope of work broken down by individual tasks deliverables and/or subtasks deliverables with milestones must be submitted for Omnitrans' approval during the project kickoff meeting and prior to the commencement of work. The consultant must identify at the minimum the deliverables indicated in Section 4.4 as milestones and is encouraged to identify and propose subtask milestones. The established schedule of values will be used as the basis for submitting and reviewing all invoice payments. Consultant shall provide a schedule of values satisfactory to Omnitrans no more than fifteen (15) days from the date of execution of this Agreement.

11.2 Partial Payments Application

Partial payments of milestones not identified in the schedule of values will not be made to the consultant for costs incurred in the performance of the contract. Payments will be based on the approved schedule of values with milestones and payment in whole for the completion of each said milestone upon satisfactory delivery of the stated scope of work.

11.3 Application

Consultant's application for payment in a form acceptable to Omnitrans shall be itemized and supported by substantiating data as required by Omnitrans. Consultant's partial payment application for Consultant's Work performed in the preceding payment period shall be submitted for approval of Omnitrans in accordance with the schedule of values.

11.4 Time of Application

Omnitrans shall designate the dates of each payment period. Consultant shall submit partial payment applications to Omnitrans no later than the twentieth day of each payment period for Consultant's Work performed up to and including the last day of the preceding payment period indicating work completed and, materials suitably stored during the preceding payment period.

11.5 Time of Payment

Partial payments to Consultant for satisfactory performance of Consultant's Work shall be made on the first Thursday each month unless a holiday occurs; then partial payment shall be in within the Omnitrans schedule release day of payments.

11.6 Payment Delay

If for any reason not the fault of Consultant, Consultant does not receive a partial payment from Omnitrans within 30 days after the date such payment is due, then Consultant, upon giving an additional 15 days' written notice to Omnitrans, and without prejudice to and in addition to any other legal remedies, may stop Consultant's Work until payment of the full amount owing to Consultant has been received. If Consultant's Work has been stopped for

thirty (30) days because Consultant has not received partial payments, Consultant may terminate this Agreement upon giving Omnitrans an additional 15 days' written notice.

11.7 Payments Withheld

Should Consultant, its Lower Tier Consultants or agents cause damage to the Project or fail to perform or otherwise be in default under the terms of this Agreement, Omnitrans shall have the right to withhold from any payment, or otherwise be reimbursed for, an amount sufficient to protect Omnitrans from any loss that may result. When the grounds for withholding payment have been removed, payment shall be made for amounts withheld because of them.

11.7.1 Retainage

Omnitrans may withhold up to five (5) percent of the payment due in any billing period when Omnitrans determines that such a withholding is necessary to protect the government's interest and ensure satisfactory completion of the contract.

11.8 Final Payment Application

Upon acceptance of Consultant's Work by Omnitrans and receipt from Consultant of evidence of fulfillment of Consultant's obligations in accordance with the Contract Documents, Omnitrans shall forward Consultant's application for final payment without delay. All estimated quantities for which partial payments have been made are subject to review and correction on the final application.

11.9 Requirements:

Before Omnitrans can be required to forward Consultant's application for final payment, Consultant shall submit to Omnitrans:

- A. An affidavit that all payrolls, and other indebtedness connected with Consultant's Work for which Omnitrans or Omnitrans surety might in any way be liable, have been paid or otherwise satisfied and, to the extent they have not been earlier submitted, lien waivers (or conditional waivers, as appropriate) executed by Consultant and by all Lower Tier Consultants and suppliers who have supplied labor and/or materials for the completed Consultant's Work;
 - 1) Satisfaction of required close-out procedures;
 - 2) Certification that insurance required by the Contract Documents to remain in effect beyond final payment is in effect and will not be canceled or allowed to expire without at least thirty (30) days' written notice to Omnitrans unless a longer period is stipulated in this Agreement;

- 3) Deliverables are required per the Contract to include electronic, editable files in addition to paper copies

11.10 Time of Payment

Final payment of the balance due of the Agreement Price shall be made to Consultant:

- 1) Upon receipt of Omnitrans waiver of all claims related to Consultant's Work except for unsettled liens, unknown defective work, and non-compliance with the Contact Documents or warranties.

11.11 Waiver of Claims

Final payment shall constitute a waiver of all claims by Consultant relating to Consultant's Work, but shall in no way relieve Consultant of liability for the obligations assumed or for faulty or defective work discovered after final payment.

11.12 Continuing Obligations

Provided Omnitrans is making payments on or has made payments to Consultant in accordance with the terms of this Agreement, Consultant shall reimburse Omnitrans for any costs and an expense for any claim, obligation, or lien asserted before or after final payment is made that arises from the performance of Consultant's Work. Consultant shall reimburse Omnitrans for costs and expenses including attorney's fees and costs and expenses incurred by Omnitrans in satisfying, discharging, or defending against any such claims, obligation, or lien including any action brought or judgment recovered.

11.13 Payment Use Restriction

Payment received by Consultant shall be used to satisfy the indebtedness owed by Consultant to any person furnishing labor or materials for use in performing Consultant's Work before it is used in any other manner.

*11.14 Payment Use Verification

Omnitrans shall have the right at all times to contact Consultant's Lower Tier Consultants and suppliers to ensure that they are being paid promptly by Consultant for labor or materials furnished for use in performing Consultant's Work.

*11.15 Partial Lien Waivers and Affidavits

As a prerequisite for release of retainage and, as Omnitrans may at any time and from time to time require, for partial payments, Consultant shall provide, in a form satisfactory to Omnitrans, partial lien or claim waivers and affidavits from Consultant and its Lower Tier Consultants and suppliers for the completed Consultant's Work.

11.16 Consultant Payment Failure

Upon payment by Omnitrans, Consultant shall promptly pay its Lower Tier Consultants and suppliers the amounts to which they are entitled. In the event Omnitrans has reason to believe that labor, material or other obligations incurred in the performance of Consultant's Work are not being paid, Omnitrans may give written notice of a potential claim or lien to Consultant and may take any steps deemed necessary to assure that partial payments are utilized to pay such obligations, including but not limited to the issuance of joint checks. If upon receipt of notice, Consultant does not (a) supply evidence to the satisfaction of Omnitrans that the moneys owing have been paid; or (b) post a bond Omnitrans, Omnitrans surety, if any, and the premises from a claim or lien, then Omnitrans shall have the right to withhold from any payments due or to become due to Consultant a reasonable amount to protect Omnitrans from any and all loss, damage or expense including attorney's fees that may arise out of or relate to any such claim or lien.

11.17 Consultant Assignment of Payments

Consultant shall not assign any moneys due or to become due under this Agreement, without the written consent of Omnitrans, unless the assignment is intended to create a new security interest within the scope of Article 9 of the Uniform Commercial Code. Should Consultant assign all or any part of any moneys due or to become due under this Agreement to create a new security interest or for any other purpose, the instrument of assignment shall contain a clause to the effect that the assignee's right in and to any money due or to become due to Consultant shall be subject to the claims of all persons, firms and corporations for services rendered or materials supplied for the performance of Consultant's Work.

11.18 Payment Not Acceptance

Payment to Consultant does not constitute or imply acceptance of any portion of Consultant's Work.

11.19 Payment in U.S. Dollars

All payment to Consultant shall be made in United States Dollars unless otherwise indicated within this Agreement.

12. **CONSULTANT'S STATUS**

Neither the Consultant nor any party contracting with the Consultant shall be deemed to be an agent or employee of Omnitrans. The Consultant is and shall be an independent contractor, and the legal relationship of any person performing services for the Consultant shall be one solely between that person and the Consultant.

13. **ASSIGNMENT**

Consultant shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of Omnitrans.

14. OMNITRANS WARRANTIES

Omnitrans makes no warranties, representations or agreements, either express or implied, beyond such as are explicitly stated in this Agreement.

15. OMNITRANS REPRESENTATIVE

Except when approval or other action is required to be given or taken by the Omnitrans Board of Directors, the CEO/General Manager of Omnitrans, or such person or persons as he shall designate in writing from time to time, shall represent, and act for Omnitrans.

Omnitrans shall transmit to Consultant, with reasonable promptness, all submittals, transmittals, and written approvals relative to Consultant's Work.

16. OMNITRANS RIGHT TO PERFORM CONSULTANT'S RESPONSIBILITIES AND TERMINATION OF AGREEMENT

Failure of Performance

16.1 Notice to Cure

If Consultant refuses or fails to supply enough properly skilled workers, proper materials, or maintain the Schedule of Consultant's Work, or fails to make prompt payment to its workers, Lower Tier Consultants or suppliers, or disregards Laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or otherwise is guilty of a material breach of a provision of this Agreement, Consultant shall be deemed in default of this Agreement. If Consultant fails within three (3) working days after written notification to commence and continue satisfactory correction of the default with diligence and promptness, then Omnitrans, without prejudice to any other rights or remedies, shall have the right to any or all of the following remedies:

- 1) Supply workers, materials, equipment and facilities as Omnitrans deems necessary for the completion of Consultant's Work or any part which Consultant has failed to complete or perform after written notification, and charge the cost, including reasonable overhead, profit, attorneys' fees, costs and expenses to Consultant;
- 2) Contract with one or more additional contractors to perform such part of Consultant's Work as Omnitrans determines will provide the most expeditious completion of Consultant's Work, and charge the cost to Consultant.
- 3) Withhold any payments due Consultant pending corrective action in amounts sufficient to cover losses and compel performance to the extent required by and to the satisfaction of Omnitrans. In the event of an emergency affecting

the safety of persons or property, Omnitrans may proceed as above without notice

16.2 Termination by Omnitrans

If Consultant fails to commence and satisfactorily continue correction of a default within three (3) working days after written notification issued, then Omnitrans may, in lieu, issue a second written notification, to Consultant and its surety, if any. Such notice shall state that if Consultant fails to commence and continue correction of a default within seven (7) working days of the written notification, this Agreement will be deemed terminated. Omnitrans also may furnish those materials, equipment and/or employ such workers or Lower Tier Consultants as Omnitrans deems necessary to maintain the orderly progress of the Work. All costs incurred by Omnitrans in performing Consultant's Work, including reasonable overhead, profit and attorney's fees, costs and expenses, shall be deducted from any moneys due or to become due Consultant. Consultant shall be liable for the payment of any amount by which such expense may exceed the unpaid balance of the Agreement Price.

16.3 Bankruptcy

16.3.1 Termination Absent Cure

If Consultant files a petition under the Bankruptcy Code, this Agreement shall terminate if Consultant or Consultant's trustee rejects the Agreement or, if there has been a default, Consultant is unable to give adequate assurance that Consultant will perform as required by this Agreement or otherwise is unable to comply with the requirements for assuming this Agreement under the applicable provisions of the Bankruptcy Code.

16.3.2 Interim Remedies

If Consultant is not performing in accordance with the Schedule of Consultant's Work at the time a petition in bankruptcy is filed, or at any subsequent time, Omnitrans, while awaiting the decision of Consultant or its trustee to reject or to assume this Agreement and provide adequate assurance of its ability to perform, may avail itself of such remedies under this Article as are reasonably necessary to maintain the Schedule of Consultant's Work. Omnitrans may offset against any sums due or to become due Consultant all costs incurred in pursuing any of the remedies provided including, but not limited to, reasonable overhead, profit and attorney's fees. Consultant shall be liable for the payment of any amount by which costs incurred may exceed the unpaid balance of the Agreement Price.

16.4 Suspension by Omnitrans

Omnitrans may order Consultant in writing to suspend all or any part of Consultant's Work for such period of time as may be determined to be appropriate for the convenience of Omnitrans. Phased Consultant's Work or interruptions of Consultant's Work for short

periods of time shall not be considered a suspension. Consultant shall notify Omnitrans in writing within ten (10) working days after receipt of Omnitrans order of the effect of such order upon Consultant's Work. To the extent allowed Omnitrans, the Agreement Price or Schedule of Consultant's Work shall be adjusted by Agreement Change Order for any increase in the time or cost of performance of this Agreement caused by such suspension. No claim under this Article shall be allowed for any costs incurred more than ten (10) working days prior to Consultant's notice to Omnitrans. Neither the Agreement Price nor the Schedule of Consultant's Work shall be adjusted for any suspension, to the extent that performance would have been suspended, due in whole or in part to the fault or negligence of Consultant or by a cause for which Consultant would have been responsible. The Agreement Price shall not be adjusted for any suspension to the extent that performance would have been suspended by a cause for which Consultant would have been entitled only to a time extension under this Agreement.

16.5 Termination by Omnitrans for Convenience

Upon written notice to Consultant, Omnitrans may, without cause and without prejudice to any of its other rights or remedies, elect to terminate the Agreement. Consultant shall immediately discontinue Consultant's Work. Consultant shall be paid for:

- A. All amounts due and not previously paid to Consultant for Consultant's Work completed in accordance with the Contractor Documents prior to such notice;
- B. Expenses sustained prior receipt of the notice or the effective date of termination, whichever is later, in performing services or furnishing labor, materials or equipment in connection with uncompleted Consultant's Work, plus fair and reasonable sums for overhead and profit; and
- C. Reasonable costs incurred in settling and paying claims arising out the termination of lower tier Agreements and purchase orders and in demobilization.

16.6 Delays and Extension of Time

If Consultant is delayed in the progress of the Scope of Services for any reason, Consultant shall, within 48 hours of the start of the occurrence, give written notice to Omnitrans of the cause of the potential delay and estimate the possible time extension involved. Within 7 days after the cause of delay has been remedied, Consultant shall give written notice to Omnitrans of any actual time extension requested.

16.6.1 Within 15 days after Consultant submits to Omnitrans a written request for an extension of time, Omnitrans will present its written opinion as to whether an extension of time is justified, and, if so, a decision as to the number of days for time extension.

16.6.2 No extension of time will be considered for weather conditions normal to the area in which the Services are being performed. Unusual weather conditions, if

determined by Omnitrans to be of a severity that would stop all progress, may be considered as cause for an extension of completion time.

16.6.3 Delays in delivery of equipment or material purchased by Consultant or its Lower Tier Consultants will not be considered as a just cause for delay. Consultant shall be fully responsible for the timely ordering, scheduling, expediting, and/or delivery of all equipment, materials, and personnel.

17. MAINTENANCE, AUDIT, AND INSPECTION OF RECORDS

All Consultants and Lower Tier Consultants costs incurred in implementation of Work Directives will be subject to audit. Consultant and its Lower Tier Consultants shall permit Omnitrans, the State Auditor, the Secretary of Transportation, The Comptroller General of the United States or its authorized representatives to inspect, examine, make excerpts from, transcribe, and copy Consultant's books, work, documents, papers, materials, payrolls, records, accounts, and any and all data relevant to the Agreement at any reasonable time and to audit and verify statements, invoices or bills submitted by Consultant pursuant to this Agreement, and shall provide such assistance as may be reasonably required in the course of such inspecting including, but not limited to the following:

- A. Consultant's and its Lower Tier Consultants' Accounting Division shall provide instruction to auditors on accessing documents.
- B. Consultants shall arrange audit entrance and exit interviews in which Consultant and or its Lower Tier Consultants and Omnitrans or its authorized representatives will participate.
- C. Consultant's management, or the management of a Lower Tier Consultants shall provide at the Omnitrans request a letter of representation
- D. These records shall be available for a period of three years after completion of the Agreement term.
- E. If as a result of the audit/ review it is determined by Omnitrans Auditor or staff that reimbursement of any cost including profit or fee under this agreement was in excess of the negotiated and incurred costs by the Consultant or Lower Tier Consultants, the Consultant agrees to reimburse Omnitrans for those costs within 60 days of written notification by Omnitrans.

18. WARRANTY OF SERVICES

- A. Consultant warrants that its professional services shall be performed in accordance with the professional standards of practices of comparable Engineering and Design management support services firms at the time the services are rendered. In addition Consultant shall provide such specific warranties as may be set forth in individual Work Directives as agreed upon by the parties.

- B. In the event that any services provided by the Consultant hereunder are deficient because of Consultant or Lower Tier Consultants failure to perform said services in accordance with the warranty standards set forth above, Omnitrans will report such deficiencies in writing to the Consultant within a reasonable time. Omnitrans thereafter shall have:
- 1) The right to have the Consultant re-perform such services at the Consultants expense; or
 - 2) The right to have such services done by others and the costs thereof charged to and collected from the Consultant if within thirty days after written notice to the Consultant requiring such re-performance, Consultant fails to give satisfactory evidence to Omnitrans that it has undertaken said re-performance.

19. EQUAL EMPLOYMENT OPPORTUNITY

In connection with the performance of this Agreement, the Consultant shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, disability, or national origin. The Consultant shall take affirmative action's to insure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, disability or national origin. Such actions 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. Consultant further agrees to insert a similar provision in all Agreements, except Agreements for standard commercial supplies or raw materials.

20. DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIRED

- A. Website References: U.S. DOT, <http://osdbu.dot.gov/DBEProgram/index.cfm> and http://www.caltrans.ca.gov/hq/bep/find_certified.htm .
- B. 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.
- C. Omnitrans overall agency goal for DBE is 11% through Federal FY12.
- D. The Consultant Firm shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant Firm shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the Consultant Firm 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 the Consultant Firm signs with a Lower Tier Consultant must include the assurance in this paragraph (see 49 CFR 26.13(b)).

- E. Consultant 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 on the form in Section 5.0 of this Contract:
- 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 Consultant/Consultant's commitment to use a DBE Lower Tier Consultant 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) Good faith efforts to achieve this goal are recognized and must be documented in contractor's proposal.
 - 7) Consultant must present the information required above as a matter of responsiveness with initial proposals (see 49 CFR 26.53(3)).
- F. The Consultant Firm is required to pay its Lower Tier Consultants performing work related to this contract for satisfactory performance of that work no later than 30 days after the Consultant Firm's receipt of payment for that work from Omnitrans. In addition, the Consultant Firm may not hold retainage from its Lower Tier Consultants.
- G. The Consultant Firm must promptly notify Omnitrans, whenever a DBE Lower Tier Consultant performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE Lower Tier Consultant to perform at least the same amount of work. The Consultant Firm may not terminate any DBE Lower Tier Consultant and perform that work through its own forces or those of an affiliate without prior written consent of Omnitrans.

21. **CONFLICT OF INTEREST**

Depending on the nature of the work performed, a Consultant of Omnitrans is subject to the same conflict of interest prohibitions established by the Federal Transit Administration and California law that govern Omnitrans employees and officials (Cal. Gov't Code Section 1090 et seq. and Cal. Gov't Code Section 87100 et seq.). During the proposal process or the term of the Agreement, Consultant may be required to disclose financial interests.

22. PROHIBITED INTEREST

No member, officer, or employee of the Omnitrans during his or her tenure or for one year after that tenure shall have any interest, direct or indirect, in this Agreement or the proceeds under this Agreement.

23. FEDERAL REQUIREMENT AND REGULATIONS

This project may be financed in part by operation funds from the Federal Transit Administration and or the Federal Highway Administration. Accordingly, federal requirements apply to this contract and if those requirements change then the changed requirements shall apply to the project as required.

- A. Regulations shall be construed to include any requirements that are mandated now or in the future by any legislative entity that has authority and jurisdiction to make such requirements.
- B. Consultant Firm is responsible to be self-informed regarding all regulations necessary to perform every aspect of this contract.
- C. Omnitrans has the right to verify the Consultant Firm's compliance with any regulations.
- D. Omnitrans has the right to take all reasonable actions to ensure Consultant Firm's compliance.
- E. All operations and materials shall conform to the laws of the State of California.
- F. Additional regulatory requirements may be contained in the other contract sections and attachments.

24. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

During the performance of this Agreement, the Consultant shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time which are incorporated by reference and made a part of this contract.

25. ACCESS REQUIREMENTS FOR INDIVIDUALS WITH DISABILITIES

Consultant agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. Sections 12101 et seq. and 49 U.S.C. Section 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. app. Section 1612; and implementing regulations, as may be amended.

26. INTEREST OF MEMBERS OF OR DELEGATES TO CONGRESS

No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising from it.

27. ENERGY CONSERVATION

Consultant shall recognize 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 U.S.C. Section 6321 et seq.).

28. ENVIRONMENTAL VIOLATIONS

For all contracts and Agreements in excess of \$100,000, Consultant agrees to comply with all applicable standards, orders or requirements issued under Section 305 of the Clean Air Act (42 U.S.C. Section 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. Section 1368), Executive Order 11378, and Environmental Protection Omnitrans regulations (40 C.F.R., Part 15) which prohibit the use under nonexempt Federal contracts, grants or loans of facilities included on the EPA List for Violating Facilities. Consultant shall report violations to FTA and to the USEPA Assistant Administrator for Enforcement (EN0329).

Other Agency Regulations, Guidelines, Standards, Orders and Directives

- A. Consultant Firm also recognizes that the Environmental Protection Agency (EPA), the Federal Highway Administration (FHWA) and other agencies of the Federal Government have issued and are expected in the future to issue requirements in the form of regulations, guidelines, standards, orders, or other directives that may affect the contract.

Consultant Firm agrees to adhere to and impose on its Lower Tier Consultants, any Federal requirements as it may now or in the future promulgate.

- B. Environmental Protection

Consultant Firm agrees to comply with applicable requirements of:

- C. The National Environmental Policy Act of 1969, as amended, 42 U.S.C. § 4321 et seq.;

Federal Transit Act, Section 14 as amended, 49 U.S.C. app § 1610;

Council on Environmental Quality regulations, 40 CFR Part 1500 et seq.; and

Environmental Impact and Related Procedures, Joint FHWA/FTA regulations, at 23 CFR Part 771 and 49 CFR Part 622.

- D. Air Quality

- 1) Consultant Firm agrees to comply with applicable requirements of EPA regulations:
 - a. Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act, 40 CFR Part 51, Subpart T; and
 - b. Determining Conformity of Federal Actions to State or Federal Implementation Plans, 40 CFR Part 93.
- 2) Consultant Firm agrees to support the air quality conformity requirements and agrees to implement each air quality mitigation and control measure incorporated in the Specification and Scope of Work
- 3) EPA also imposes requirements pertaining to the Clean Air Act, as amended that may apply to transit operators. Thus, the Consultant Firm should be aware that the following EPA regulations, among others, might apply to this Specification and Scope of Work.
- 4) Control of Air Pollution from Motor Vehicles and Motor Vehicle Engines, 40 CFR Part 85;
- 5) Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines: Certification and Test Procedures, 40 CFR Part 86; and
- 6) Fuel Economy of Motor Vehicles, 40 CFR Part 600.
- 7) **Mitigation Of Adverse Environmental Effects**
 Should adverse environmental effects arise from the performance of this contract, the Consultant Firm agrees to take all reasonable steps to minimize such effects pursuant to 49 U.S.C. app. § 1610, other applicable statutes, and the procedures set forth in 23 CFR Part 771 and 49 CFR Part 622.

29. **PATENT RIGHTS**

- A. If any invention, improvement or discovery of Consultant is conceived or first actually reduced to practice in the course of or under this Agreement which invention, improvement or discovery may be patentable under the Patent Laws of the United States or any foreign country, Consultant shall immediately notify Omnitrans and provide a detailed report. The rights and responsibilities of Omnitrans, Consultant and the federal government with respect to such invention will be determined in accordance with applicable federal laws, regulations, policies, and any waivers thereof.
- B. If any invention, improvement, or discovery of the Consultant is conceived or first actually reduced to practice in the course of or under this Specification and Scope of

Work, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Contractor agrees to notify Omnitrans immediately and provide a detailed report.

- C. The rights and responsibilities of the Consultant with respect to such invention, improvement, or discovery will be determined in accordance with applicable Federal laws, regulations, policies, and any waiver thereof.
- D. Omnitrans should advise the Consultant of any impending patent suit and provide all information available.
- E. Consultant shall defend any suit or proceeding brought against Omnitrans based on a claim that any equipment, system, software, or any part thereof, furnished under this contract constitutes an infringement of any patent, and the Consultant shall pay all damages and costs awarded therein, excluding incidental and consequential damages, against Omnitrans.
- F. In case such equipment, or any part thereof, is in such suit held to constitute infringement and use of said equipment, system, software, or parts is enjoined, the Consultant shall, at its own expense and at its option, either procure for Omnitrans the right to continue using said equipment, system, software, or part, or replace same with noninfringing equipment, system or software or modify them so they become noninfringing.

30. **RIGHTS IN DATA**

- A. The term "subject data" as used herein means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this Agreement. The term includes graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms, such as, punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term does not include financial reports, cost analyses, and similar information incidental to project administration.
- B. The following restrictions apply to all subject data first produced in the performance of this Agreement:
 - 1) Except for its own internal use, the Consultant may not publish or reproduce such data in whole or in part, or in any manner or form, nor may the Consultant authorize others to do so, without the written consent of Omnitrans, until such time as Omnitrans may have either released or approved of the release of such data to the public. This restriction or publication, however, does not apply to Agreements with academic institutions.

- 2) As authorized by 49 C.F.R. Part 18.34, the Government (FTA) reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal government purposes:
 - a. Any work developed under a grant, cooperative agreement, sub-grant, sub-agreement or third-party contract, irrespective of whether or not a copyright has been obtained; and
 - b. Any rights of copyright to which Omnitrans, Consultant or a third-party contractor purchases ownership with Federal assistance.
- C. When FTA provides assistance to Omnitrans for a project involving planning, research, development, or demonstration, it is FTA's intent to increase the body of mass transportation knowledge rather than to limit the benefits of the project to those participating parties. Therefore, Omnitrans, a recipient of FTA assistance to support planning, research, development or a demonstration financed under Section 4(i), 6, 8, 9, 18, 18(h), or 20 of the Urban Mass Transportation Act of 1964, as amended, understands and agrees that, in action to the rights set forth in Subsection 119.b(2) of Part II of the Grant Agreement, FTA may make available to any FTA recipient, sub-grantee, sub-recipient, third-party contractor or third party Consultant, either FTA's license in the copyright to the "Subject Data" derived under the Agreement or a copy of the "Subject Data" first produced under the Agreement.
- D. Consultant shall indemnify and save and hold harmless Omnitrans, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the recipient of proprietary rights, copyrights or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any data furnished under this Agreement.
- E. Nothing contained in this clause shall imply a license to Omnitrans under any patent or be construed as affecting the scope of any license of other right otherwise granted to Omnitrans under any patent.
- F. Subsections c) and d) above are not applicable to material furnished to the Consultant by Omnitrans and incorporated in the work furnished under the contract; provided that such incorporated material is identified by the Consultant at the time of delivery of such work.
- G. In the event that the work which is the subject of this Agreement, is not completed, for any reason whatsoever, all data generated under this Agreement shall become subject data as defined in this Section and shall be delivered as Omnitrans may direct.

31. CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

Consultant shall submit prior to execution of this Agreement, documentation showing that neither the Consultant nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or Omnitrans. For this purpose, Consultant must complete and execute the form entitled "Certification Regarding Debarment, Suspension, and Other Responsibility Matters,"

32. LOBBYING CERTIFICATE

Section 1352, Title 31 of the United States Code prohibits federal funds from being expended to influence or to attempt to influence federal government officials, including members of Congress, in connection with the awarding of any federally funded contract, the making of any federal grant or loan or entering into any cooperative agreement. Prior to execution of this Agreement, the Consultant shall submit the "Certification for Federal Aid Contracts,". The Consultant's signature on this Certification shall certify a) that it has not engaged in the prohibited activity and b) that the language of the Certification shall be included in all lower tier Agreements, which exceed \$100,000, and that all such Consultants shall certify and disclose accordingly. The District is responsible for keeping the certification form of the Consultant, who is in turn responsible for keeping the certification forms of Consultants.

In addition, if the Consultant has engaged in any lobbying activities to influence or to attempt to influence the awarding of this contract, Consultant must disclose these activities. In such a case, the Consultant shall complete Standard Form -- LLL, "Disclosure of Lobbying Activities". Omnitrans must also receive all disclosure forms from Consultants.

The Consultant and any Lower Tier Consultants shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of a previously filed disclosure form. An event that materially affects the accuracy of the information reported includes:

- a. A cumulative increase of \$25,000 or more in the amount paid or expended to be paid for influencing or attempting to influence this federally funded contract; or
- b. A change in the person(s) influencing or attempting to influence this federally funded contract; or

- c. A change in the officer(s), employee, or member contracted to influence or attempt to influence this federally funded contract.

33. NOTICES

All communications relating to the day to day activities of the project shall be exchanged between Omnitrans' Contract Administrator and the Consultant's Representative.

All other notices and communications deemed by either party to be necessary or desirable to be given to the other party shall be in writing and may be given by personal delivery to a representative of the parties or by mailing the same postage prepaid, addressed as follows

If to Omnitrans:

Omnitrans
Christine Van Matre - Procurement Department
1700 West 5th St.
San Bernardino, CA 92411

Additional Contact Information:

909-379-7122 Phone
christine.vanmatre@omnitrans.org

If to the CONSULTANT:

Parsons
Phil Hoffmann
1776 Lincoln Street, Suite 600
Denver, CO 80203

Additional Contact Information:

303-837-4020 (office)
303-913-6097 (cell)
Phil.hoffmann@parsons.com

The address to which mailings may be changed from time to time by notice mailed as described above. Any notice given by mail shall be deemed given on the day after that on which it is deposited in the United States Mail as provided above.

34. ATTORNEYS' FEES

If any legal proceeding should be instituted by either of the parties to enforce the terms of this Agreement or to determine the rights of the parties under this Agreement, the prevailing party in said proceeding shall recover, in addition to all court costs, reasonable attorneys' fees.

35. APPLICABLE LAW

This Agreement, its interpretation and all work performed under it shall be governed by the laws of the State of California.

36. BINDING ON SUCCESSORS

All of the terms, provisions, and conditions of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, assigns and legal representatives.

37. DISPUTE RESOLUTION

37.1 Initial Dispute Resolution

If a dispute arises out of or relates to this Agreement, or its breach, the parties shall endeavor to settle the dispute first through direct discussions. If the dispute cannot be settled through direct discussions, the parties shall submit the dispute to mutually acceptable mediator experienced in review of design contracts before resorting to arbitration. Issues to be mediated are subject to arbitration. The location of the mediation shall be the location of the Project. Once one party files a request for mediation with the other party and with the mediator, the parties agree to conclude such mediation within sixty (60) days of filing the request.

37.2 Agreement to Arbitrate

Any controversy or claim arising out of or relating to this Agreement or its breach not resolved by mediation, except for claims which have been waived by the making or acceptance of final payment, and the claims shall be decided by hearing before an arbitrator acceptable to both parties. If the parties are unable to agree on a single arbitrator, each party shall appoint one arbitrator, and the appointed arbitrators shall select a third arbitrator who shall serve as chairperson of the arbitration panel. Unless the parties mutually agree otherwise, rules comparable to the Design Industry Arbitration Rules of the American Arbitration Association then in effect shall govern the proceedings, provided that failure of the arbitrator(s) to comply with such rules shall not invalidate the final decision by the arbitrator(s). This agreement to arbitrate shall be governed by the Federal Arbitration Act.

37.3 Exceptions

The agreement to mediate and to arbitrate shall not apply to any claim:

- 1) Of contribution or indemnity asserted by one party to this Agreement against the other party and arising out of an action brought in a state or federal court or in arbitration by a person who is under no obligation to arbitrate the subject matter of such action with either of the parties hereto or does not consent to arbitration; or

37.4 Notice of Demand

A written demand for arbitration shall be filed with the other party to this Agreement within a reasonable time after the dispute or claim has arisen, but in no event after the applicable statute of limitations for a legal or equitable proceeding would have run.

37.5 Award

The arbitration award shall be final. Judgment upon the award may be confirmed in any court having jurisdiction.

37.6 Work Continuation and Payment

Unless otherwise agreed in writing, Consultant shall continue Consultant's Work and maintain the Schedule of Work during any arbitration proceedings. If Consultant continues to perform, Omnitrans shall continue to make payments in accordance with this Agreement.

37.7 No limitation of Rights or Remedies

Nothing in this Article shall limit any rights or remedies not expressly waived by Consultant which Consultant may have under lien laws or payment bonds.

37.8 Multiparty Proceeding

The parties agree that all parties necessary to resolve a claim shall be parties to the same arbitration proceeding. Appropriate provisions shall be included in all other contracts relating to the Project to provide for the consolidation of arbitrations.

37.9 Claims

- 1) Consultant shall: (a) provide notice to Omnitrans supporting documentation, cost data and certifications reasonably required to establish entitlement and to quantify any such claim at such times and in such format as may be required by the Contract Documents; (b) timely provide all information, pleadings, documents, access to witnesses, etc., necessary to fulfill all terms of the dispute resolution provisions of the Contract Documents (c) underwrite the costs, including attorney fees, associated with the prosecution of such claims.
- 2) Omnitrans will present all timely-received Consultant notices of claim and supporting documents within the time frames required by the Contract Documents. Omnitrans will fully sponsor such claims throughout the disputes process and will take all steps necessary to protect Consultant's right to proceed through the claims process. Provided however, Omnitrans shall have no obligation to present to Owner Consultant claims which Omnitrans determines, in good faith, are false or fraudulent. Omnitrans may, at its exclusive option, assign its right to prosecute Consultant's claim to

Consultant to the extent such assignment is permitted. Consultant agrees to be bound by any settlements which Omnitrans may make in good faith.

37.10 Cost of Dispute Resolution

The prevailing party in any dispute arising out of or relating to this Agreement or its breach that is resolved by arbitration or litigation shall be entitled to recover from the other party reasonable attorney's fees, costs and expenses incurred by the prevailing party in connection with such arbitration or litigation.

38. MISCELLANEOUS PROVISIONS

38.1 Governing Law

This Agreement shall be governed by the laws of the State of California

38.2 Severability

If any of the Provisions contained in this Agreement are held invalid, illegal, or unenforceable, the enforceability of the other remaining provisions shall not be impaired. Limitations of liability, indemnities, and other express representations shall survive termination of this Agreement for any cause.

38.3 No Waiver of Performance

The failure of either party to insist, in any one or more instances, upon the performance of any of the terms, covenants, or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of term, covenant, condition, or right with respect to further performance.

38.4 Titles

The titles given to the Articles of this Agreement are for ease of reference only and shall not be relied upon or cited for any other purpose.

*38.5 Human Trafficking

48.5.1 This Article 12.5.1 shall apply if the Consultant is organized under the laws of the United States of America. The parties agree to comply with the applicable provisions of National Security Presidential Directive/NSPD-22, the applicable provisions of 22 U.S.C. 7104, as amended by the Trafficking Victims Protection Reauthorization Act of 2003 (Pub. L. 108-193) and the Trafficking Victims Protection Reauthorization Act of 2005 (Public Law 109-164), and all applicable implementing regulations with regard to the U.S. Government's "zero tolerance" policy against human trafficking.

48.5.2 This Article 12.5.2 shall apply if the Consultant is not organized under the laws of the United States of America. Consultant agrees to strictly comply with all

applicable laws, rules and regulations to which compliance is required by any lawful jurisdiction governing the trafficking of persons, including the recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery.

48.5.3 Consultant further agrees that this Article shall be flowed down to all of its lower tier Consultants at any tier. Any violation of this Article shall be considered cause for termination for default.

***38.6 Usage of Property, Data, and Other Items Furnished under U.S. Federal Contracts**

48.6.1 This Article shall apply if this Agreement is issued under a U.S. Federal contract.

48.6.2 Notwithstanding any other Article of this Agreement, upon prior written notice to Omnitrans and to the extent that such use will not interfere with Consultant's performance of Work under this Agreement, Consultant with the Government's authorization may use any furnished property, data or other items which the Government owns for which it has the right to authorize use on other Government contracts or Agreements.

***38.7 Environmental Responsibility**

Omnitrans promotes the Consultant's endorsement of, commitment to, and improvement toward, services, products, processes, and business practices that are protective of the natural environment. Consultant shall provide documentation of such if requested by OMNITRANS.

***38.8 Proprietary Information**

Except when otherwise authorized in writing by Omnitrans, all drawings, specifications, technical data, and other information furnished to Consultant by Omnitrans or developed by Consultant or others in connection with the Services rendered are, and will remain, the property of Omnitrans and may not be copied or otherwise reproduced or used in any way except in connection with the Services, or disclosed to third parties or used in any manner detrimental to the interest of Omnitrans.

***38.9 Force Majeure**

Neither party to this Agreement will be liable to the other party for delays in performing the Services, or for the direct or indirect cost resulting from such delays, that may result from acts of God, acts of governmental authorities, extraordinary weather conditions or other natural catastrophes, or any other cause beyond the reasonable control or contemplation of either party. Each party will take reasonable steps to mitigate the impact of any force majeure. Omnitrans will adjust the schedule and compensation under this Agreement.

38.10 Assignments

Neither party shall have the power to or will assign any of the duties or rights or any claim arising out of or related to this Agreement, whether arising in tort, contract or otherwise, without the written consent of the other party. Any unauthorized assignment is void and unenforceable. These conditions and the entire Agreement are binding on the heirs, successors, and assigns of the parties hereto.

*38.11 Nondisclosure Agreement

To enable the Consultant to conduct activities related to the Scope of Services of this Agreement, it may be necessary for Omnitrans to disclose proprietary or confidential information to the Consultant. In that regard, the Consultant agrees, for a period of five (5) years from the date of disclosure of information identified as proprietary or confidential by Omnitrans, that the Consultant shall treat the information in strictest confidence and shall not disclose it to third parties unless the information:

- a. Was part of the public domain when received or becomes a part of the public domain through no action or lack of action by the Consultant.
- b. Prior to disclosure, was already in the Consultant's possession and not subject to an obligation of confidence imposed in another relationship.
- c. Subsequent to disclosure, is obtained from a third party who is lawfully in possession of the information and not subject to a contractual relationship to Omnitrans with respect to the information.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers as of the day and year first above written.

OMNITRANS

**PARSONS TRANSPORTATION GROUP,
INC.**

_____	By	_____
Milo Victoria, CEO/General Manager		(Authorized signature – sign in blue ink)
Dated _____	Name	_____
		(Print or type name of person signing contract)
	Title	_____
		(Print or Type)
	Dated	_____

ITEM # E12

DATE: January 9, 2013

TO: Board Chair Dick Riddell & Members of the Omnitrans Board of Directors

THROUGH: Milo Victoria, CEO/General Manager

FROM: Jack Dooley, Director of Maintenance

SUBJECT: AUTHORIZE DISPOSAL OF SURPLUS VEHICLES

FORM MOTION

Authorize the CEO/General Manager to release to auction the surplus vehicles listed on Attachment A through the current contracted agent, Bar None Auctions, of the City of San Bernardino.

BACKGROUND & SUMMARY

Omnitrans has 27 revenue vehicles that have reached the end of their useful life (12 years and/or 500,000 miles)

Omnitrans has six non-revenue vehicles that have reached the end of their useful life (5 years and/or 100,000 miles)

Omnitrans has 10 paratransit vehicles that have reached the end of their useful life (7 years and/or 200,000 miles) and one that was 'totaled' in a traffic collision.

Omnitrans and FTA policy require competitive sales of surplus equipment. The normal method is sale by public auction. The vehicles ready for auction are listed on Attachment A.

Omnitrans' Procurement Policy Manual approved by the Board on June 7, 2006, states in Policy 7000:

5. ASSET DISPOSITION

- 5.1 An asset which has either reached the end of its useful life, or for which early replacement will result in vastly improved safety, reliability, efficiency, and/or productivity, may be retired from service and disposed of according to FTA regulations in Circular 5010.1C for Capital Assets and Omnitrans policies for Controllable Assets.
- 5.2 Assets valued at \$5,000.00 or less may be retired or disposed of with the approval of the CEO/General Manager, and report back to the Board of Directors.
- 5.3 Assets valued at more than \$5,000.00 may only be retired or disposed of on the instructions of the Board of Directors.
- 5.4 FTA funded assets are governed by FTA rules and regulations in Circular 5010.1C.
- 5.5 Complete records shall be maintained on the disposition of all excess and retired assets by the Finance Department.
- 5.6 Assets may be disposed of either through sale, trade, transfer, relocation, scrap, or when irreparable damage results in an insurance loss.

All vehicles/parts/equipment recommended for disposal meet these standards.

CONCLUSION

If the Board doesn't approve this action, the vehicles will remain in storage, losing value, maintaining liability and being subject to possible vandalism damage.

MV:JD

AUTHORIZATION TO DISPOSE OF SURPLUS VEHICLES

Attachment A

Equip	VIN	Year	Make	Model	In Service	Out Of Service	Mileage
256	1226652	1998	Advance	Riding Vacuum	07/01/98	06/01/11	N/A
302	1GNNDM19XX2B127364	2002	Chevy	Astrovan	03/19/02	05/18/12	98,199
303	1GNNDM19X02B127499	2002	Chevy	Astrovan	03/11/02	12/31/11	114,277
304	1GNNDM19X72B128231	2002	Chevy	Astrovan	03/20/02	04/24/12	119,771
315	1GNNDM19WOYB116826	1999	Chevy	Astrovan	09/28/99	02/11/11	93,793
317	1GNNDM19W5XB172971	1999	Chevy	Astrovan	08/25/99	01/10/11	121,472
383	2G1WL52M8X1102829	1999	Chevy	Lumina	07/01/99	05/25/12	132,630
0001	5FYC2LP16YU020636	2000	New Flyer	C40LF	06/01/00	09/27/12	591,626
0008	5FYC2LP13YU020643	2000	New Flyer	C40LF	08/02/00	09/27/12	591,626
0009	5FYC2LP15YU020644	2000	New Flyer	C40LF	05/22/00	12/10/12	642,491
0010	5FYC2LP17YU020645	2000	New Flyer	C40LF	06/17/00	09/30/11	565,268
0012	5FYC2LP10YU020647	2000	New Flyer	C40LF	07/26/00	12/08/11	618,063
0015	5FYC2LP10YU020650	2000	New Flyer	C40LF	08/02/00	11/09/12	642,796
0016	5FYC2LP12YU020651	2000	New Flyer	C40LF	06/28/00	01/12/12	555,696
0017	5FYC2LP14YU020652	2000	New Flyer	C40LF	06/17/00	10/12/12	664,212
0018	5FYC2LP16YU020653	2000	New Flyer	C40LF	08/25/00	12/05/12	672,849
0019	5FYC2LP18YU020654	2000	New Flyer	C40LF	06/17/00	12/19/12	655,775
0020	5FYC2LP1XYU020655	2000	New Flyer	C40LF	05/17/00	07/18/12	641,213
0021	5FYC2LP11YU020656	2000	New Flyer	C40LF	05/22/00	08/26/11	578,311
0023	5FYC2LP15YU020658	2000	New Flyer	C40LF	07/20/00	12/16/11	586,837
0024	5FYC2LP17YU020659	2000	New Flyer	C40LF	07/13/00	06/29/12	620,077
0026	5FYC2LP15YU020661	2000	New Flyer	C40LF	07/26/00	06/29/12	627,357
0027	5FYC2LP17YU020662	2000	New Flyer	C40LF	07/20/00	11/26/12	654,821
0028	5FYC2LP19YU020663	2000	New Flyer	C40LF	07/01/00	09/29/12	661,262
0031	5FYC2LP14YU020666	2000	New Flyer	C40LF	07/28/00	06/02/12	639,765
0032	5FYC2LP16YU020667	2000	New Flyer	C40LF	06/01/00	12/17/11	556,366
0033	5FYC2LP18YU020668	2000	New Flyer	C40LF	06/17/00	12/17/12	671,603
0035	5FYC2LP16YU020670	2000	New Flyer	C40LF	05/17/00	11/03/12	667,776
0036	5FYC2LP18YU020671	2000	New Flyer	C40LF	08/02/00	10/28/11	622,797
0037	5FYC2LP1XYU020672	2000	New Flyer	C40LF	07/14/00	11/03/11	642,792
0038	5FYC2LP11YU020673	2000	New Flyer	C40LF	05/17/00	10/17/12	694,690
0040	5FYC2LP15YU020675	2000	New Flyer	C40LF	05/17/00	10/10/12	636,433
0041	5FYC2LP17YU020676	2000	New Flyer	C40LF	07/20/00	11/15/11	623,054
0043	5FYC2LP10YU020678	2000	New Flyer	C40LF	06/28/00	11/19/12	645,972
0044	5FYC2LP12YU020679	2000	New Flyer	C40LF	07/13/00	12/28/12	665,732
629	1FDXE45S7YHA43583	2000	Ford	Goshen GCII	01/28/00	08/20/08	270,400
920	1FDXE45S7YHA33085	2000	Ford	Goshen GCII	01/03/00	08/20/08	261,673
921	1FDXE45S0YHA33090	2000	Ford	Goshen GCII	01/20/00	08/20/08	227,409
929	1FDXE45SXYHA46798	2000	Ford	Goshen GCII	02/07/00	08/20/08	262,204
935	1FDXE45S2YHA46830	2000	Ford	Goshen GCII	02/18/00	08/20/08	228,914
939	1FDXE45SXYHA58689	2000	Ford	Goshen GCII	03/06/00	08/20/08	234,378
943	1FDXE45S0YHA43604	2000	Ford	Goshen GCII	03/22/00	08/20/08	246,339
950	1FDXE45S8YHA43611	2000	Ford	Goshen GCII	03/27/00	08/20/08	246,583
951	1FDXE45SXYHA43612	2000	Ford	Goshen GCII	04/19/00	08/20/08	257,429
957	1FDXE45S7YHB10652	2000	Ford	Goshen GCII	05/26/00	08/20/08	230,150
9032	1FDXE45S26DB18761	2006	Starcraft	Allstar	02/28/07	12/08/09	101,826

ITEM # E13
DATE: January 9, 2013

TO: Board Chair Dick Riddell & Members of the Omnitrans Board of Directors

THROUGH: Milo Victoria, CEO/General Manager

FROM: Jennifer M. Sims, Director of Procurement

SUBJECT: AUTHORIZE AWARD OF CONTRACT MNT13-37, PEST CONTROL SERVICES

FORM MOTION

Authorize the CEO/General Manager to award Contract MNT13-37 to Antimite Termite and Pest Control of San Bernardino, CA, for the provision of Pest Control Services for a two (2) year base period beginning April 1, 2013, and ending no later than March 31, 2015, in the amount of \$12,840, and the authority to exercise three (3) single option years, to extend the contract no later than March 31, 2018, for \$6,420 for option years 1 and 2 and \$6,720 for option year 3, totaling \$19,560, for a total of \$32,400, plus a ten percent contingency of \$3,240, for a total not-to-exceed amount of \$35,640.

BACKGROUND & SUMMARY

On September 24, 2012, staff issued the Request for Quotations through Omnitrans' online bidding system. Six bids were received electronically on December 10, 2012. Of the six bids, four were found to be responsive and responsible. Listed in the chart below are the bid prices that were submitted.

Bidders	Base Period Years 1 and 2	Option Year 1	Option Year 2	Option Year 3	Total
Antimite Termite and Pest Control	\$12,840	\$6,420	\$6,420	\$6,720	\$32,400
Orkin Services of California dba Orkin Pest Control	\$15,072	\$7,536	\$7,536	\$7,536	\$37,680
Stanley Pest Control	\$17,112	\$8,556	\$8,556	\$8,556	\$42,780
A. Tovar Termite and Pest Control	\$31,344	\$15,672	\$15,672	\$15,672	\$78,360

Award is being made to the lowest responsive and responsible bidder. This procurement meets the requirements of Omnitrans' current Procurement Policies and Procedures.

FUNDING SOURCE

Funding for this contract is budgeted in the Maintenance Department's Operating Budget as follows:

Department	1200
Expenditure Code	505060

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

CONCLUSION

If the contract for the Pest Control Services is not approved, the current contract will expire and Omnitrans will experience a lapse in service.

MV:JS:aa

 Omnitrans Omnitrans STANDARD CONTRACT 1700 West Fifth Street San Bernardino CA 92411	<input checked="" type="checkbox"/>	New					Contract Number MNT13-37
	<input type="checkbox"/>	Change					
	<input type="checkbox"/>	Cancel					
	Omnitrans Department Maintenance			Dept. No. 1120		Project Pest Control	
Contracts Manager 	Omnitrans Procurement Representative Alesia Atkinson			Telephone 909-379-7314		Total Contract Amount \$12,840	
	Contract Type: Fixed Fee						
Director of Procurement 		Contract Start Date 04-01-13	Contract End Date 03-31-15	Original Amount \$	Amended Amount		

THIS CONTRACT is entered into in the State of California by and between Omnitrans, a Joint Powers Authority; hereinafter called Omnitrans, and

Name

Antimite Termite and Pest Control

hereinafter called Contractor

Address

750 S. Lugo

San Bernardino, CA 92408

Telephone

Federal ID No.

951-970-3710

36-3478837

IT IS HEREBY AGREED AS FOLLOWS:

1. **Contract Documents.** The complete Contract Record includes all of the following Contract Documents, either included herewith or incorporated herein by reference, and they are included in their entirety as a part of this Contract, to wit;
 - A. This signed Agreement dated _____ and any and all of its Amendments, Appendices, Exhibits and Attachments;
 - B. Omnitrans' Solicitation Number **MNT13-37** dated **September 24, 2012** and any and all of its Addenda, Appendices, Exhibits and Attachments;
 - C. Contractor's Proposal dated **December 10, 2012** and any and all of its Addenda, Appendices, Exhibits and Attachments;

2. **Scope of Work.** The Contractor agrees to perform certain work set forth and particularly described in the aforementioned documents, incorporated herein by reference, in consideration of:

Monthly Pest Control Services for buildings: East Valley, West Valley, "I" Street, and Feron Boulevard locations and Quarterly Bus Service for buses located at East Valley and West Valley locations further set out in Attachment "A"

3. **Compensation.** Omnitrans agrees to pay, and the Contractor agrees to accept in full, payment for the work outlined in the Contract Documents, the total not to exceed amount:

BASE QUOTATION.....\$535.00 monthly.

Contract Duration. The duration of this contract is for a two (2) year base period beginning April 1, 2013, and ending no later than March 31, 2015, and the authority to exercise three (3) single options years to extend the contract no later than March 31, 2018.

4. **Omnitrans Contacts.**

Contract Technical Activities: John Gensel, Facilities Supervisor, 909-379-7190

Contract Administration: Alesia Atkinson, Contract Administrator, 909-379-7314

Required Documents. As required by the RFQ, the final award of this contract is contingent on the receipt of the following remaining documents:

General Liability including Products/Completed Operations: \$1,000,000 per occurrence for bodily and property damage liability and \$2,000,000 aggregate; *Omnitrans named as Additional Insured.*

Automobile Liability: \$1,000,000 per occurrence for bodily and property damage liability and aggregate; *Omnitrans named as Additional Insured*

Workers' Compensation: statutory limits

Employer's Liability: \$1,000,000 per occurrence.

Environmental Liability: \$1,000,000 per occurrence and \$2,000,000 aggregate; *Omnitrans named as Additional Insured.*

5. **Instructions.** The Notice to Proceed letter and a purchase order will be issued after all of the above-referenced contingencies have been met.

IN WITNESS WHEREOF, Omnitrans and the Contractor have each caused this Contract to be subscribed by its respective duly authorized officers on its respective behalf.

OMNITRANS

ANTIMITE TERMITE AND PEST CONTROL

Milo Victoria, CEO/General Manager

By

(Authorized signature – sign in blue ink)

Dated _____

Name

Alfonso Serrano

(Print or type name of person signing contract)

Title

Branch Manager

(Print or Type)

1. BACKGROUND:

Omnitrans maintains four (4) property locations as set forth in Section 2 (Statement of Work), C (Locations) and a fleet of approximately 186 buses that require Pest Control Services.

2. STATEMENT OF WORK:

A. General

1. The Contractor shall provide Pest Control Services to Omnitrans in accordance with the specifications, terms and conditions defined herein during the term of the contract. Omnitrans reserves the right to add or delete facilities and/or buses during the term of the contract.

B. Requirements.

1. Contractor shall provide all labor, equipment, materials, (including chemicals, insecticides, etc) required to provide pest control services. Service shall include cleanout, clean-up, control and removal of birds, rats, mice, roaches, weevils, lice, fleas, ants, silverfish, crickets, spiders, scorpions, mites, carpet beetles, moths, and all other arthropod insects in the interior/exterior of the buildings, grounds, facilities and inside public transit vehicles.
2. Contractor shall provide reports of any pest activity in and around Omnitrans' properties and transit vehicles to Omnitrans Facility Manager or his/her designee.
3. Contractor shall keep all indoor and outdoor traps free of debris and filled with active bait.
4. Contractor will add additional bait stations at the request of Omnitrans.
5. Contractor shall coordinate with and seek approval from Omnitrans' Facility Manager or his/her designee forty-eight (48) hours prior to performing all services.
6. Contractor shall provide non-routine maintenance service calls within twenty-four (24) hours from time of Omnitrans' notification.
7. Contractor shall possess and maintain throughout the term of the contract all licenses and certifications in accordance with federal, state and local laws and Ordinances to dispense traps, baits, sprays, fogs and gels.
8. Contractor shall complete a service verification form for all Facilities and Buses.
9. Only licensed/certified personnel shall perform all application of pesticides.

C. Locations.

1. The Contractor shall provide pest control services at the following locations:

- a. *East Valley*
1700 West 5th Street
San Bernardino CA 92411
- b. *West Valley*
4748 Arrow Highway
Montclair CA 91763
- c. *San Bernardino Paratransit*
234 S. I Street
San Bernardino CA 92410
- d. *Rancho Cucamonga Paratransit*
9421 Feron Blvd
Rancho Cucamonga, CA 91730

D. Service Schedule-Buildings.

- 1. Contractor shall provide monthly inspections to all locations and shall be completed no later than the 15th of each month between the hours of 6:00 a.m. and 3:00 p.m., Monday through Friday.
- 2. Contractor shall spray interior offices and lunch room areas, as needed, between 6:00 pm and 11:00 pm, Monday through Friday. Any alternative scheduling may be coordinated with Omnitrans' Facilities Manager or his/her designee.

E. Pest Control - Buildings.

- 1. Contractor shall provide all traps, baits, sprays, fogs, foams or any other necessary means to control pest in the following areas, including but not limited to:
 - a. Office Spaces
 - b. Ceilings
 - c. Hallways
 - d. Stairways
 - e. Elevators
 - f. Maintenance Shops
 - g. Bus Wash Areas
 - h. Fuel Islands

- i. Kitchens
 - j. Bathrooms
 - k. Warehouses
 - l. Metal Bins
 - m. Trash Bins
 - n. Storage Areas
 - o. Containers
 - p. Exterior of Buildings
 - q. Interior of Buildings
2. Contractor shall add additional bait stations, increase traps, spray or fogging for all pests at no additional expense upon the request of the Facilities Manager or his/her designee to combat unusually high traffic.
 3. The contractor shall monitor the traps as scheduled by the Facilities Manager or his/her designee as needed which includes:
 - a. Removal and disposal of carcasses
 - b. Bait replenishment
 - c. Wiping down each trap to free it of dirt and debris (outside perimeter & inside perimeter box traps)
 - d. Record date of service for each trap (outside perimeter & inside perimeter box traps)

F. Pest Control – Buses.

1. Contractor shall provide pest control services such as traps, gel, baits, spraying and fogging in all public transit vehicles and shall be performed after Omnitrans' routine bus cleaning has occurred and must be scheduled with the Omnitrans Facility Manager or his/her designee.
2. Contractor shall specifically target cockroaches, ants, lice, fleas, spiders and all other arthropod insects by applying baits, sprays and fogs.

3. Contractor shall apply baits which have no volatile organic compounds, solvent systems or odors to produce negative response in passengers or operators. Bait shall be applied throughout the buses in voids, behind panels, under rear seat and crevices where cockroaches, ants, lice, fleas, and spiders may thrive. Bait shall have effectiveness for at least 90 days after application. If bait application alone is not effective, a combination of spraying and fogging shall be required and performed by Contractor, at no additional cost to Omnitrans, to eradicate the above named arthropod and insects with prior notification from Omnitrans' Facilities Manager or his/her designee.
4. Contractor's spraying shall be applied to side wall interface, rear floor to seat deck interface, side wall to passenger seat rail track, front floor to lower dash panel interface and under the rear most passenger bench seat. Spraying shall not be performed by the Contractor until Omnitrans' Facility Manager or his/her designee has provided to the Contractor written approval to do so.
5. Contractor's fogging shall be applied to interior of buses with adequate quantity to stimulate arthropod and insect movement to areas where previous spraying occurred. Fogging shall not be performed by the Contractor until Omnitrans' Facility Manager or his/her designee has provided to the Contractor written approval to do so.
6. Contractor shall isolate the buses and have signage displayed on the front windshield and each door to prevent entry for a period of 3-4 hours after applying spray and fog treatments. Afterwards, the buses shall be aired out for a period of at least one (1) hour, then signage removed so that the buses are available for occupancy thereafter.

G. PESTICIDES

1. Application of Pesticides
 - a. Pesticides shall be applied by Contractor only at times which limit the possibility of contamination from climatic and other factors. Contractor's applicator shall monitor forecasted weather conditions to avoid making applications prior to inclement weather to eliminate potential runoff of treated areas. When water is required to increase pesticide efficiency, it shall be applied by the Contractor only in quantities that each area is capable of receiving without excessive runoff.
 - b. Care shall be taken by the Contractor in transferring and mixing pesticides to prevent contaminating areas outside the target area. Application methods shall be used by the Contractor which insures materials are confined to target areas. Disposal of pesticides shall be within the guideline established in the California Food and Agricultural Code.

H. Hazardous Materials

1. Contractor shall perform all work in a clean, safe and professional manner, causing no hazards to Omnitrans' staff, facility, the environment or Contractor's service personnel.
2. All hazardous material must be applied, handled, collected, stored and disposed of by the Contractor in accordance with federal, state and local environmental compliance regulations.
3. Coordination of hazardous waste collection, storage and disposal shall be made by the Contractor, through Omnitrans' Facilities Manager, or his/her designee.
4. All proposed chemicals to be used by the Contractor must have MSDS (Material Safety Data Sheets), which must be provided to the Omnitrans' Facility Manager for prior written approval.

End of Attachment "A"

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BOOK A ROOM.

YUCAIPA: After 15 years, council selects a new mayor

BY CASSIE MACDUFF | December 12, 2012; 05:35 PM | [Comments \(1\)](#)

For the first time in 15 years, Dick Riddell won't be mayor of the East Valley city of Yucaipa.

Riddell has served on the Yucaipa City Council for 18 years and has been elected and re-elected by his peers on the council as mayor for the past decade and a half.

But on Monday night, there was a shakeup.

The just-sworn-in council, including new Councilman Bobby Duncan, selected eight-year Councilwoman Denise Hoyt as mayor and 14-year Councilman Tom Masner as mayor pro tem.

Hoyt said there was no dissatisfaction with Riddell as mayor; it was just someone else's turn.

"He's been a great mayor," said Hoyt, president of the Academic Senate at Crafton Hills College, explaining the council felt "that it was just time for a new voice."

Masner said the move doesn't detract from Riddell's work on behalf of Yucaipa. But in most cities, the role of mayor rotates among all of the council members, he said. Having a different council member presiding at meetings will be a good change, he added.

Duncan said that although Riddell has a core of staunch supporters in town, many people he spoke to during the campaign said they wanted change.

A tall, grandfatherly figure, Riddell is a familiar presence at Chamber of Commerce mixers, ribbon-cuttings, grand openings, Boy Scout events and other community gatherings.

Retired from the Gas Co. and an engineering firm, he said he has the time to devote to such activities.

His ouster came out of left field, Riddell said. But he has no hard feelings.

"I would have liked to have continued serving as mayor, but I'm not unhappy or resentful," Riddell said, later adding, "I just think they thought I'd been on there long enough and wanted to change."

The council did reappoint Riddell to the San Bernardino Associated Governments and Omnitrans boards, where he's helped bring transportation improvements and funding to the city — a smart move to keep his institutional knowledge.

Masner replaces Diane Smith as mayor pro tem. She didn't seek re-election.

On Wednesday, Hoyt, Masner and City Manager Ray Casey went to Lakewood where the American Public Works Association, Southern California, recognized Yucaipa's Uptown redevelopment project as Project of the Year. It's one of several areas where the city has displayed forward thinking.

The Uptown project completely redesigned the city's business district, replacing two traffic-signalized intersections with roundabouts, narrowing the street and making it more pedestrian-friendly, Casey said.

The city also was recognized recently by the South Coast Air Quality Management District for sustainability including solar power for the community center and park, and groundwater recharge to reduce reliance on imported water, Casey said.

The city also requires the use of non-potable water for landscape irrigation to conserve fresh water.

I hope Yucaipa stays on the right track under its new leaders. It's done well so far.

Cassie MacDuff can be reached at 951-368-9470 or cmacduff@PE.com or [facebook.com/PE.CassieMacDuff](https://www.facebook.com/PE.CassieMacDuff)

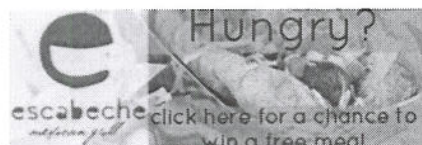
Cassie MacDuff

STATE: Republican Party needs new leader

YUCAIPA: After 15 years, council selects a new mayor

SAN BERNARDINO: Cracks show up in King sculpture

REGION: Fresh & Easy experiment fails



HSGT
BASKETBALL:
Great Oak 44,
Norco 35



Coyote Holiday
Classic: CSUSB 71,
CBU 69



HSGT
BASKETBALL:
Temecula Valley
82, Norco 47

Comments

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News



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Inland terror

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Sports Day

Business

JURY FINDS KILLER WAS INSANE

Decision angers victim's family

By Lori Fowler Staff Writer

Lawrence Kester of Fontana had been driving his Omnitrans bus route for two weeks when he was stabbed to death by a passenger in May 2010 in Rialto.

A jury convicted Robert Darrell Johnson, 36, of first-degree murder. But that same jury later decided the killer was insane at the time of the stabbing, meaning Johnson will not go to prison for the crime.

Kester's relatives, who attended the trial daily in San Bernardino Superior Court, are outraged, confused and frustrated.

"This is a real horrible thing," said Barbara La Clair, Kester's mother-in-law. "I was thinking about making a sign and standing out in front of the court — just so people would know. It would read, 'The killer that stabbed the Omnitrans bus driver 18 times is walking the street.'"

Lawyers confirmed that Johnson would not spend time in a prison cell. But he will not be a free man either.

"He will likely be sent to a state mental hospital," said defense co-counsel Andrew Moll, adding that Johnson could serve a life sentence at a secured facility, where he will receive treatment and therapy.

Johnson is scheduled to return to court Jan. 11, when a judge will decide which facility he will go to.

"If someone is found to have been restored to sanity, they could be moved to a different facility with lower security," Moll said. "But that is so far in the future."

State law requires convicted killers deemed insane to be sent to a state mental facility for treatment, prosecutor William Lee said.



Rachel Luna Staff Photographer

Misty Kester, left, and her mother, Barbara La Clair, hold a photo of Kester's husband, Lawrence, at La Clair's home in Fontana. Lawrence Kester was stabbed to death in 2010, but his killer was found to be insane at the time of the crime and will not serve time in prison. Misty Kester and La Clair both say they believe the killer was sane.

At some point during his treatment, Johnson could be deemed sane again. And if that's the case, he could be released.

"That scares us," Lee said. "That's why we pursued the fact that he should go to prison. We felt he was sane enough to be responsible for the crime."

La Clair, 69, of Fontana, echoed those thoughts.

"That is a scary thing that this guy will be out back on the streets," she said. "He's not crazy. He's sane."

But his lawyers disagree. They say his theoretical release is a long way away.

"In Johnson's case, and from what came out in trial, it is highly unlikely, even impossible," Moll said. "This was an individual diagnosed as far back as when he was 18. He was involuntarily hospitalized 26 times. He has a deep-rooted mental illness."

On May 7, 2010, Johnson boarded an Omnitrans bus near Riverside Avenue and Base Line in Rialto and walked to the back. A few minutes

later, he came up front and started stabbing Kester, authorities said.

Kester, 47, lost control of the bus, which crashed into a tree.

Johnson ran off the bus and into a Bank of America, where he threw the knife away, authorities said. He then ran across the parking lot to a Stater Bros., where he was arrested.

"The crime itself, that he did it, was rather easy to prove," Lee said about Johnson. "It was on video."

"The issue came down to his sanity."

Jurors convicted Johnson on Nov. 27. On Dec. 5, they found him not guilty by reason of insanity.

During the trial, five mental-health professionals testified about Johnson's competency.

His diagnosis, which was fairly consistent, was a combination of schizophrenia and mood disorders, said another of his defense attorneys, Erin Alexander.

Johnson had ongoing delusions in which he thought he

was being hypnotized, she added. Leading up to the stabbing, his hospitalizations had been more frequent and longer in duration, Alexander said.

"He is as mentally ill as anyone I've ever represented," Alexander said.

But Kester's wife, Misty, disagrees.

After sitting through the trial, she said she believes her husband's killer was sane at the time of the crime — and that he planned it so he would look crazy.

"I don't care whatever the case is," Misty Kester said. "I think a person should pay for what they've done."

Johnson is medicated and is "very remorseful about what he did. It is very difficult for him to understand why he did it," Alexander said.

But Misty Kester is still feeling the effects of her loss.

"My mind won't rest at ease," said the 41-year-old Fontana resident. "I don't sleep well at night. I haven't had a normal sleep since the trial."

Misty Kester said she is

uncomfortable with the idea that Johnson could one day be out of custody.

"I don't feel safe," she said.

The couple had been married for 12 years. They had six children together, and Lawrence Kester had two other children from a previous marriage.

Misty Kester said her husband was a hard worker and a good father.

"He was a bus driver for 15 years. He loved the Lord. He would read the Bible to the children," she said.

Along with the jury, Misty Kester and her family watched the graphic video that showed her husband's death.

"He was a good person," she said. "Nobody deserves to die like that."

Despite the outcome, Misty Kester said she is happy Johnson's trial is over.

"But I still have to live every day knowing that ... he's only going to a mental hospital," she said.

lori.fowler@inlandnewspapers.com
909-483-9378

"That scares us. That's why we pursued the fact that he should go to prison. We felt he was sane enough to be responsible for the crime."

WILLIAM LEE, prosecutor in Robert Darrell Johnson's trial

ITEM # F1

DATE: January 9, 2013

TO: Board Chair Dick Riddell & Members of the Omnitrans Board of Directors

FROM: Milo Victoria, CEO/General Manager

SUBJECT: CEO/GENERAL MANAGER'S REPORT

Ridership for November 2012 was 1,352,701 compared to 1,341,129 in November 2011. This is a 0.8 percent increase from November of last year.

Year-to-date system-wide ridership through November 2012 was 6,979,644, which is an increase of 2.89 percent from last year-to-date. Fixed route ridership increased by 187,511 passengers year-to-date. Ridership on Access increased by 9,127 passengers, and OmniLink decreased by 282 passengers. OmniGo ridership was 10,739, which is a 0.1 percent decrease over November 2011.

Year-to-date pass outlet sales through November 2012 increased by 17,523 units with 53,942 sold compared to 36,419 last year. This represents an increase of 48.1 percent. Revenue from bus pass and ticket sales, combined with the Go Smart college program revenue, was down 2.6 percent through November (\$2,357,319.85 vs. \$2,419,319.40 last year, a decrease of \$61,999.55). This discrepancy is related to Go Smart college program revenue which was received mostly in lump sum payments by cities during the one-year pilot last year and which now is received in semester payments by partner colleges.

Year-to-date fixed route revenue through November 2012 was \$5,595,125 compared to \$5,508,409 last year, which is an increase of 1.57 percent.

On-time performance for November 2012 was 85.27 percent.

During the month of November, there were seven vandalism incidents – one Colton, one in Highland, one in Rialto, and four in San Bernardino.

Omnitrans participated in eleven outreach events in November – San Bernardino County employees travel training bus, November 1; American Lung Association Fight for Air Walk, November 3; Blue Mountain Senior Apartments travel training bus, November 5; Upland High School travel training bus, November 6; Ontario Senior Center travel training bus, November 7; San Bernardino Valley College travel training bus, November 9; San Bernardino Schools Resource Fair, November 10; Montclair Children's Services travel training bus, November 14; Eat & Be Well Thanksgiving Event in Fontana, November 21; Fontana Re-Entry Support

Services Monthly Event, November 26; and Spark of Love “Stuff A Bus” Toy Drive, November 30.

CEO/General Manager Victoria attended the CalTIP Study Session in Huntington Beach, December 5 through 7.

At the November Board Meeting, staff was requested to provide a matrix and time schedule for implementation of the SAP Landscape Review. Staff will present this information to the January Administrative & Finance Committee and bring it to the February Board Meeting.

A community open house to provide information on the sbX Vehicle Maintenance Facility upgrade project was held on Tuesday, December 18, from 4 to 6 p.m. Omnitrans staff and representatives of USS Cal Builders, Inc. were on hand to answer questions. Several key stakeholders attended.

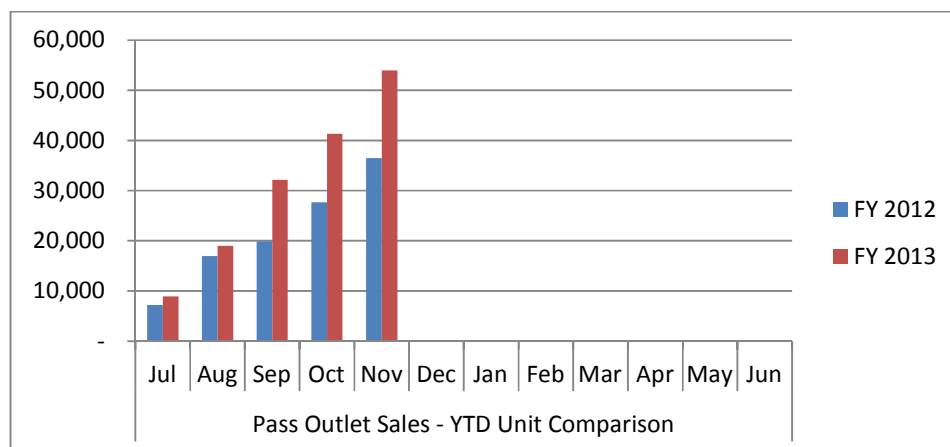
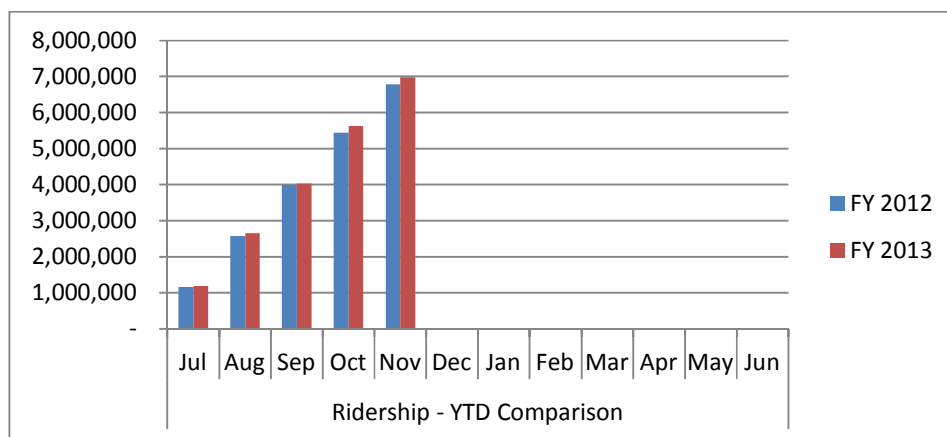
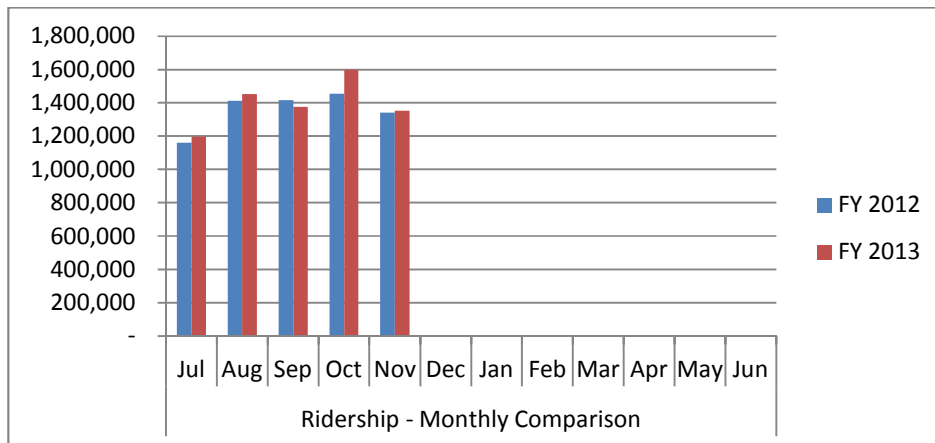
Director of Human Resources Marjorie Ewing will brief the Board on Omnitrans’ recent notification of being awarded the Eureka Award, Bronze level. The official presentation will be in February.

At the December 12 Job Corps Holiday Luncheon, Omnitrans was presented with Partner of the Year Award for the work staff did with the Job Corps interns throughout the year. Claudia Lopez of Job Corps will officially present the award at the Board Meeting.

Director of Marketing Wendy Williams will provide a brief demonstration on Omnitrans’ Bus Arrival Prediction System, NexTrip.

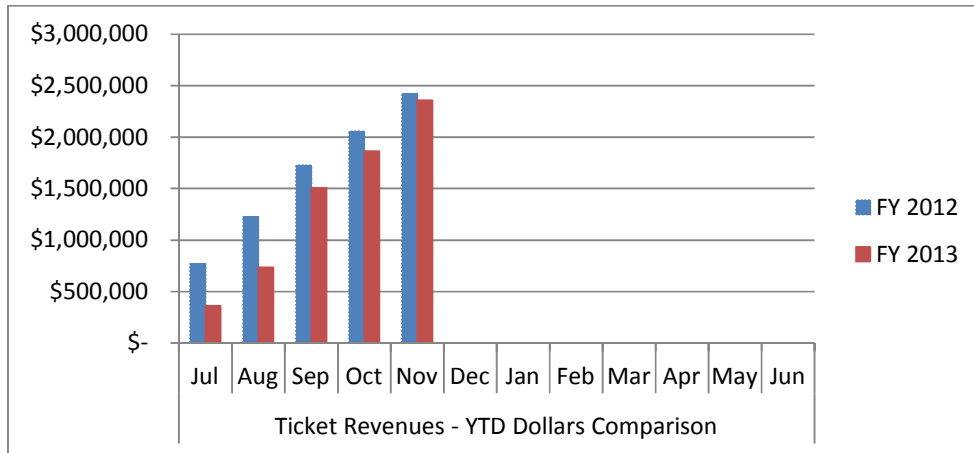
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CEO/General Manager Report - January 2013

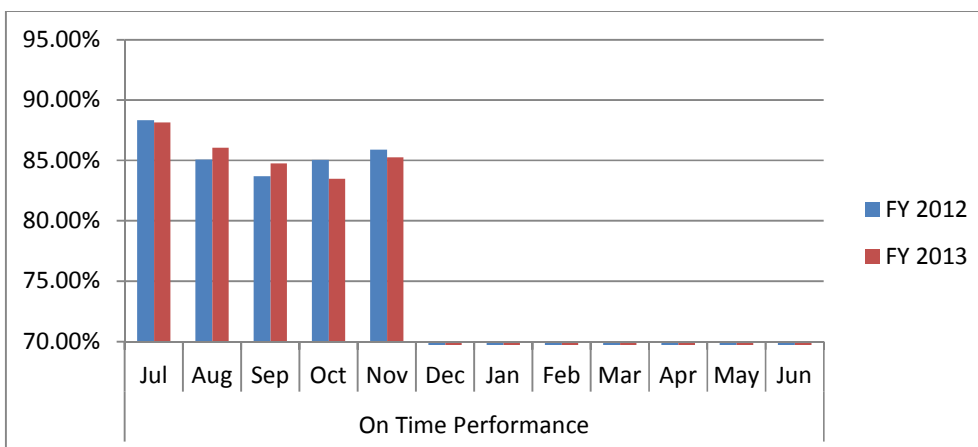
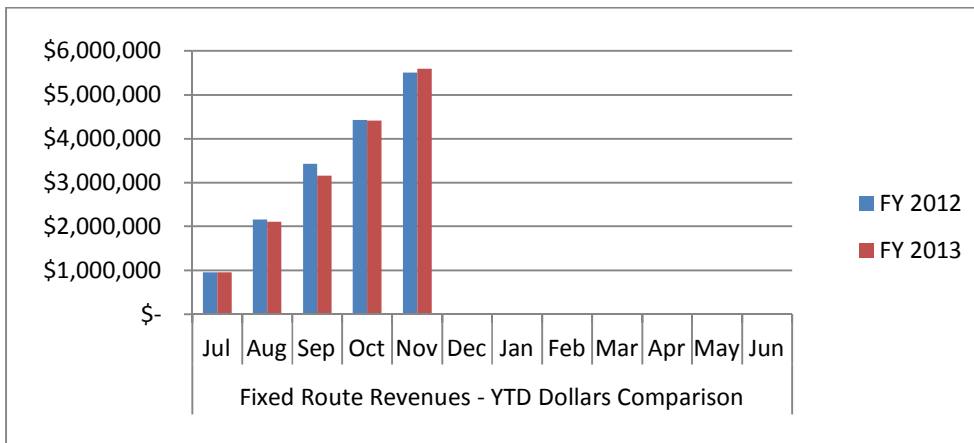


***Significant difference due to large purchase by San Bernardino County**

CEO/General Manager Report - January 2013



***Data includes revenue from tickets, passes & Go Smart college program.**



ITEM # F2

DATE: January 9, 2013

TO: Board Chair Dick Riddell & Members of the Omnitrans Board of Directors

THROUGH: Milo Victoria, CEO/General Manager

FROM: Jennifer M. Sims, Director of Procurement

SUBJECT: AUTHORIZE AWARD OF CONTRACT MNT13-15, BUS PAINTING AND WRAPPING SERVICES

FORM MOTION

Authorize the CEO/General Manager to award Contract MNT13-15, Bus Painting and Wrapping Services to SoCal Wraps of Fontana, CA, for the provision of Bus Painting and Wrapping Services. This is a one-time purchase with a total contract amount of \$538,477.50, plus a 10% contingency of \$53,848, plus a cost allocation plan cost of \$19,369, for a total cost of \$611,694.50

SUMMARY & BACKGROUND

On October 3, 2012, the Board of Directors approved the release of Invitation for Bids (IFB) MNT13-15 for the provision of Bus Painting and Wrapping Services. Public notices were published in a local newspaper of general circulation. Outreach was conducted through Omnitrans' PlanetBids website to increase the number of companies notified of the available solicitation. Four (4) bids were received by the deadline of December 4, 2012, and three were deemed responsive and responsible.

Staff requested that bidders submit three pricing options (which are shown below) with the understanding the Omnitrans would choose the option that would be most advantageous to the agency. The first option was to paint the 146 buses; the second option was to paint 102 and have bus wrap applied to 44 (for a total of 146). The final option was to wrap the entire fleet of 146 buses.

Staff recommends Option 2, painting 104 buses with the new color scheme and wrapping 44 of the later model coaches with the new fleet graphics and logo as part of the rebranding effort. This option will bring the entire fleet up to date with the new fleet graphics within five or six years instead of ten or more years.

OPTIONS	SOCAL WRAPS	COMPLETE COACH WORKS	THE PAINT DEPARTMENT, INC.
1	\$399,930.50	\$ 587,504.00	\$ 692,916.00
2	\$538,477.50	\$ 833,072.00	\$ 875,170.16
3	\$851,734.00	\$1,400,265.00	\$1,299,761.11

Prices include any design requirements requested and sales tax

Due to extreme weather conditions in San Bernardino County, SoCal Wraps only offers a 4.75 year warranty on the bus wraps. If the graffiti remover currently used by Omnitrans damages the wrap material, the damaged panels will be replaced at \$6 per square foot using contingency money.

Staff's recommendation to award Option 2 with SoCal Wraps is below the Independent Cost Estimate of \$608,400.

FUNDING SOURCE

Funding for this project is as follows:

FUNDING	GRANT	FISCAL YEAR	PROJECT NAME
FTA	CA-90-Z009	2013	Agency Rebranding
STA	13-04-OMN-B	2013	Agency Rebranding

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

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

CONCLUSION

If the Board does not approve this award, it could contribute to brand confusion between Omnitrans' old color scheme and logo with the new rebranding effort.

MV:JS:JC



CONTRACT AGREEMENT

between

SOCAL WRAPS
15875 Santa Ana Ave
Fontana, CA 92337

(hereinafter "CONTRACTOR")
Telephone: 909-434-0333
Fax: 909-434-1684

And

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

CONTRACT DOCUMENTS

**CONTRACT NO.
MNT13-15**

Bus Painting and Wrapping Services

Contract Amount: \$538,477.50

Omnitrans Project Manager:

Name: Omar Bryant
Title: Manager, East Valley
Telephone: (909) 379-7482
Email: omar.bryant@omnitrans.org

Contract Administrator:

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



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This Agreement is made and entered into as of this _____ day of _____, 2013 by and between Omnitrans (hereinafter referred to as "OMNITRANS") and SoCal Wraps (hereinafter referred to as "CONTRACTOR").

RECITALS

WHEREAS, OMNITRANS is a Joint Powers Authority organized under Sections 6500 et seq. of the California Government Code and Section 130255 of the California Public Utilities Code with power to contract for services described in Attachment A to this Agreement entitled "Attachment A, Scope of Work" (hereinafter referred to as "Work");

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

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

1. SCOPE OF WORK

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

2. PERIOD OF PERFORMANCE

The period of performance shall be beginning upon execution of final Agreement for a one time purchase or pursuant to the provisions of this Agreement, or unless earlier terminated pursuant to Section 8 or Section 9 of this Agreement.

3. CONTRACT SUM

OMNITRANS' maximum cumulative payment obligation under this Agreement shall not exceed Five Hundred Thirty Eight Thousand, Four Hundred Seventy Seven Dollars and Fifty cents (\$538,477.50), including all amounts payable to CONTRACTOR for all costs, including but not limited to direct labor, other direct costs, subcontracts, indirect costs including, but not limited to, leases, materials, taxes, insurance, and profit.

4. INVOICING AND PAYMENT

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

CONTRACTOR shall submit invoices in duplicate to:

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

Each invoice shall include, at minimum, the following information:

- Contract number
 - Detail description of the Work rendered
 - Time period covered by the invoice
 - Amount of payment requested
 - Information as requested by OMNITRANS
- B. OMNITRANS shall remit payment within thirty (30) calendar days of approval of the invoices by OMNITRANS' Project Manager.

At its sole discretion, OMNITRANS may decline to make full payment for any Work until such time as CONTRACTOR has documented, to OMNITRANS' satisfaction, that CONTRACTOR has fully completed all required Work.

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

5. AUDIT AND INSPECTION OF RECORDS

CONTRACTOR agrees that OMNITRANS or any duly authorized representative shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, time cards, employment records or other records relating to this Agreement. Such material, including all pertinent cost, accounting, financial records, and proprietary data must be kept and maintained

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

6. NOTIFICATION

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

To OMNITRANS:

Omnitrans
1700 West Fifth Street
San Bernardino, CA 92411
Attn: Joanne Cook
Contract Administrator
Joanne.cook@omnitrans.org

To CONTRACTOR:

SoCal Wraps
15875 Santa Ana Ave.
Fontana, CA 92337
Attn: Jason Pfutzenreuter
Manager
Jason@socalwraps.com

7. OMNITRANS' AND CONTRACTOR'S REPRESENTATIVES

A. OMNITRANS' Project Manager

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

Project Manager: Omar Bryant

- a. OMNITRANS has the final approval in all matters relating to or affecting the Work. Except as expressly specified in this Agreement, the Contracting Officer may exercise any powers, rights and/or privileges that have been lawfully delegated by OMNITRANS. Nothing in this Agreement should be construed to bind OMNITRANS for acts of its officers, employees, and/or agents that exceed the delegation of authority specified herein.
- b. The Contracting Officer has delegated to the Project Manager certain powers and duties in connection with this Agreement. The Project Manager is the authorized representative of the Contracting Officer for matters related to this Agreement. The Project Manager or his/her designee is empowered to:
 1. Have general oversight of the Work and this Agreement, including the power to enforce compliance with this Agreement.

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

B. Contractor's Key Personnel

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

<u>Name</u>	<u>Role</u>
<u>Jason Pfutzenreuter</u>	<u>Manager</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

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

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

8. TERMINATION FOR CONVENIENCE

OMNITRANS may terminate this Agreement in whole or in part for OMNITRANS' convenience. Omnitrans' CEO/General Manager shall terminate this Agreement by a written Notice of Termination to CONTRACTOR specifying the nature, extent, and effective date of the termination. Upon receipt of the notice of termination, CONTRACTOR shall immediately discontinue all Work affected and

deliver all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Agreement, whether completed or in process, to Omnitrans' CEO/General Manager. OMNITRANS shall make an equitable adjustment in the Agreement for Work already performed, but shall not allow anticipated profit on unperformed services. Force Majeure shall apply.

9. TERMINATION FOR BREACH OF AGREEMENT

- A. If CONTRACTOR fails to perform any of the provisions of this Agreement or so fails to make progress as to endanger timely performance of this Agreement, OMNITRANS may give CONTRACTOR written notice of such default. If CONTRACTOR does not cure such default or provide a plan to cure such default which is acceptable to OMNITRANS within the time permitted by OMNITRANS, then OMNITRANS may terminate this Agreement due to CONTRACTOR's breach of this Agreement.
- B. If a federal or state proceeding for relief of debtors is undertaken by or against CONTRACTOR, or if CONTRACTOR makes an assignment for the benefit of creditors, then OMNITRANS may immediately terminate this Agreement.
- C. If CONTRACTOR violates Section 26, Compliance with Lobbying Policies, of this Agreement, then OMNITRANS may immediately terminate this Agreement.
- D. In the event OMNITRANS terminates this Agreement as provided in this Section, OMNITRANS may procure, upon such terms and in such manner as OMNITRANS may deem appropriate, Work similar in scope and level of effort to those so terminated, and CONTRACTOR shall be liable to OMNITRANS for all of its costs and damages, including, but not limited, any excess costs for such Work.
- E. All finished or unfinished documents and materials produced or procured under this Agreement shall become OMNITRANS' property upon date of such termination.
- F. If, after notice of termination of this Agreement under the provisions of this Section, it is determined for any reason that CONTRACTOR was not in default under the provisions of this Section, or that the default was excusable under the terms of this Agreement, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Section 8, Termination for Convenience.
- G. The rights and remedies of OMNITRANS provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

10. ASSIGNMENT

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

11. SUBCONTRACTING

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

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

12. INDEPENDENT CONTRACTOR

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

13. INSURANCE

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

- A. **Commercial General Liability including Products/Completed Operations:** \$1,000,000 per occurrence for bodily and property damage liability and \$2,000,000 aggregate; *Endorsement naming Omnitrans as Additional Insured.*
- B. **Automobile Liability:** \$1,000,000 combined single limit bodily and property damage liability per accident; *Endorsement naming Omnitrans as Additional Insured.*
- C. **Workers' Compensation:** statutory limits or, a State-Approved program in an amount and form that meets all applicable requirements of the Labor Code of the State of California; *waiver of subrogation that includes Omnitrans.*
- D. **Contractors Pollution/Environmental Liability:** Applicable to the work being performed, with a limit no less than \$1,000,000 per claim or occurrence and \$2,000,000 aggregate; *Endorsement naming Omnitrans as additional insured.*

Additional Insured:

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

14. INDEMNITY

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

15. REVISIONS IN SCOPE OF WORK

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

16. RIGHTS IN TECHNICAL DATA

- A. No material or technical data prepared by CONTRACTOR under this Agreement is to be released by CONTRACTOR to any other person or

entity except as necessary for the performance of the Work. All press releases or information concerning the Work that might appear in any publication or dissemination, including but not limited to, newspapers, magazines, and electronic media, shall first be authorized in writing by OMNITRANS.

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

17. OWNERSHIP OF REPORTS AND DOCUMENTS

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

18. OWNERSHIP RIGHTS

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

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

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

19. WORK FOR HIRE

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

20. SUBMITTAL OF CLAIMS BY CONTRACTOR

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

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

21. EQUAL OPPORTUNITY

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

22. STANDARD OF PERFORMANCE

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

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

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

24. DISQUALIFYING POLITICAL CONTRIBUTIONS

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

Applicable contributions include those made by any agent/person/entity on behalf of CONTRACTOR or subcontractor(s).

25. COMPLIANCE WITH LAW

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

26. COMPLIANCE WITH LOBBYING POLICIES

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

27. PUBLIC RECORDS ACT

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

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

28. 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.

29. FORCE MAJEURE

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

30. CONFIDENTIALITY

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

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

- A. OMNITRANS shall review and approve in writing all OMNITRANS related copy proposed to be used by CONTRACTOR for advertising or public relations purposes prior to publication. CONTRACTOR shall not allow OMNITRANS related copy to be published in its advertisements and public relations programs prior to receiving such approval. CONTRACTOR shall ensure that all published information is factual and

that it does not in any way imply that OMNITRANS endorses CONTRACTOR's firm, service, and/or product.

- B. CONTRACTOR shall refer all inquiries from the news media to OMNITRANS, and shall comply with the procedures of OMNITRANS' Public Affairs staff regarding statements to the media relating to this Agreement or the Work.
- C. If CONTRACTOR receives a complaint from a citizen or the community, CONTRACTOR shall inform OMNITRANS as soon as possible and inform OMNITRANS of any action taken to alleviate the situation.
- D. The provisions of this Article shall survive the termination or expiration of this Agreement.

32. 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.

33. MODIFICATIONS TO AGREEMENT

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

34. PRECEDENCE

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement, (2) Attachment A, Scope of Work, (3) provisions of IFB No. MNT13-15 and (4) CONTRACTOR's proposal dated December 4, 2012.

35. ENTIRE AGREEMENT

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

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

OMNITRANS

SOCAL WRAPS

MILO VICTORIA
CEO/General Manager

JASON PFUTZENREUTER
Manager

Date

Date

Federal Tax I.D. No. 33-0595841

ATTACHMENT A

SCOPE OF WORK IFB-MNT13-15 BUS PAINTING AND WRAPPING SERVICES

1. DEFINITIONS

- a. Agency – Omnitrans
- b. SOW – Scope of work; Statement of Work
- c. GVWR – Gross Vehicle Weight Rating
- d. CNG – Compressed Natural Gas (~99% methane)
- e. SCF – Standard Cubic Feet
- f. PSI – Pounds per square inch
- g. VOC – Volatile organic compound

2. OBJECTIVES

- a. The objectives of this project are to repaint the existing corral-colored areas on Omnitrans buses with Du Pont M4967 EF Light Green, Imron 3.5 VOC Single Stage paint or approved equal.
- b. Install pre-defined, pre- approved full bus wraps on all buses as an option.
- c. Decal kit removal and installation on all buses (Decals to be provided by Omnitrans).

3. SCOPE

- a. Omnitrans intent is to ensure that all required body work is completed prior to the contractor performing paint or bus wrap and decal services.
- b. Omnitrans is requesting a firm fixed price per bus for priming, stripping, repainting, decal removal and installation; decal removal and installation, preparation for the optional installation of full bus wraps on all buses.
- c. Omnitrans will supply decal kits to the awarded contractor for installation
- d. Optional full bus wraps shall be installed by the Contractor if Omnitrans elects to exercise this option. Specific information regarding the pre-defined, pre-approved full bus wraps are listed in Reference Document B. Full bus wrap color and design shall be approved by Omnitrans in advance of Notice-to-proceed being issued.

ATTACHMENT A

4. AGENCY FACILITIES

- a. East Valley; 1700 W. 5th Street, San Bernardino, CA 92411
- b. West Valley; 4748 Arrow Highway, Montclair, CA 91763

5. POINT OF CONTACT

- a. Joanne Cook, Contract Administrator
- b. Omar Bryant, Maintenance Manager
- c. Oscar Tostado, Maintenance Manager

6. BUS SPECIFICATIONS

- a. New Flyer
Model; C40LF(R)
Length; 40' 7"
Width; 102" (excluding mirrors)
Wheelbase; 293"
Height; 132"
GVWR; 38,000 pounds
Fuel Capacity; 23,086 SCF @ 3,600 PSI
- b. Thomas SLF
Model; SLF
Length; 27'
Width; 96"
Wheelbase; 185"
Height; 113"
GVWR; 28,580 pounds
Fuel Capacity; 12,092 SCFS

7. FUEL SYSTEM

- a. The fuel system is a high-pressure type which operates at or below 4,000 PSI. The contractor shall not in any way tamper with, attempt adjustment or repairs of any component in the fuel system including the storage cylinders, associated valves, fittings, gauges and lines.
- b. The fuel type is compressed natural gas. The agency elects to utilize UNODORIZED fuel. Unless authorized by the contact Maintenance Manager, the contractor shall not attempt to add fuel to the bus.

ATTACHMENT A

8. METHANE GAS DETECTION AND ENGINE FIRE SUPPRESSION SYSTEM

- b. All agency buses are equipped with methane gas detection systems. The systems are designed to alert the occupant of an agency bus of any low grade or significant grade gas leak. Sensors are located on the roof (tank farm), the engine compartment and the passenger compartment. Any alarm shall be reported to the contact Maintenance Manager. Certain VOCs may cause a false positive gas alarm.
- c. All agency buses are equipped with fire suppression systems that protect the engine compartment from fire. The system is designed to operate automatically in that if there is a fire detected in the engine compartment, a dry-chemical agent will expel and attempt to suppress the fire.
- d. In the event of an emergency with the fueling system, call the fire department immediately.

9. CONTRACTORS RESPONSIBILITIES

- a. A prototype or sample bus will be provided for review at the address below during the pre-bid meeting. This prototype or sample bus will serve as an example.
- b. If the option to purchase full bus wraps is exercised, a prototype or sample bus will be provided for review at the address below at the time of execution.

1700 West Fifth Street, San Bernardino, CA 92411

- c. The contractor shall perform paint work, full bus wraps if this option is exercised and decal removal and installation on up to one hundred-forty-six (146) buses.
- e. Unless the option to install full bus wraps is exercised, all buses shall be partially painted as per specification and in accordance with Reference Documents A and B and the prototype/sample bus.
- f. The contractor shall paint buses using Du Pont Imron 3.5 VOC Single Stage paint, or approved equal. Paint colors shall be in accordance to the illustration found in reference documents B.
- g. The contractor shall properly prepare the bus for painting to prevent overspray – the unintentional painting of items, such as, roof top, roof top decals, windows, glass, lamps, lights, etc. The contractor shall complete the following prior to painting
 - 1) All exterior lamps and rubber seals will be removed before prepping and painting.

ATTACHMENT A

- 2) All hinged panels and engine doors will be prepped.
- 3) Obtain all necessary materials to perform the work, including, but not limited to, paint, decals and/or decal kits, industry standards, specifications, illustrations, plans.
- h. The contractor shall install decals in accordance with the illustration in reference documents A and B using decal kits provided by Omnitrans.
- i. The contractor shall be responsible for vehicle pick-up, delivery and storage.
- j. The contractor shall provide a secure location for the vehicles removed from Omnitrans' property.
- k. The contractor assumes all liabilities and risks associated with vehicle pick-up, vehicle delivery, vehicle storage, proper licensing and insurance for the drivers and companies used to drive and/or transfer, to and from Omnitrans' properties.
- l. The contractor shall present valid proof to Omnitrans that all operators of vehicles have a valid Commercial Class B California Driver's License permitting them to transport these buses.
- m. The contractor shall provide proof of business license and certifications.
- n. The contractor shall comply with all of OSHA/EPA/Cal OSHA/Cal EPA regulations, including training.

10. PAINT AND DECAL REMOVAL

- a. For all buses, in preparation of performing paint, re-paint, optional full bus wraps and decal installation services, the contractor shall remove all decals, in accordance with industry standard practices, from vehicles prior to applying new paint and installing new decals. The contractor shall protect all materials which include, but are not limited to, glass, plastic, rubber, and other underlying metal services.
- b. For each group, during the paint and decal removal process, if contractor damages any features on the vehicles, contractor shall notify Omnitrans' point of contact within two (2) working days, and contractor shall be responsible for replacing the features prior to the performing and/or continuing paint and decal installation services. The contractor shall reimburse Omnitrans at original and/or full cost.

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11. PAINT DRYING/CURING

- a. To ensure proper decal adhesion, the contractor shall provide adequate drying or curing time prior to any decal installations on any Omnitrans vehicle to prevent defects.
- b. The contractor shall allow pre-scheduled and consistent intervals for paint to fully cure prior to decal installation.
- c. The contractor shall, prior to the NOTICE TO PROCEED, provide a draft production schedule to the agency for review. The schedule is subject to Omnitrans approval.
- d. The provision outlined in (c) of this section shall be organized and monitored by the contractor to ensure that each vehicle meets acceptance and warranty requirements state in the SOW.

12. DECAL REQUIREMENTS AND SPECIFICATIONS

- a. The roof decal numbers must be masked off prior to any paint applications as these numbers are factory installed and must remain intact.
- b. All printing shall be done with 3M inks and clear coat finish, or approved equal.
- c. The contractor shall only install decals supplied by OMNITRANS.
- d. Decal substitutions or omissions ARE NOT PERMITTED, and only acceptable if approved in writing by the agency.
- e. For group 1 buses the contractor shall remove but not replace or apply side exterior advertisement decals.

13. PAINT PALETTES

- a. Prior to commencing any work on a First Article, Omnitrans will provide paint chips to the contractor for color match purposes.
- b. The contractor shall submit palettes for Omnitrans approval, four (4) sets of each color, size 3 inch by 6 inch, with the intended colors to be used in the painting scheme illustrated in reference document B.
- c. The contractor shall distribute the four (4) sets as follows
 - 1) One (1) set shall be provided to Omnitrans Contract Administrator.
 - 2) One (1) set shall be under the contractor's custody.

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- 3) Omnitrans' Technical Services Manager and Omnitrans' accepting team shall use the remaining two (2) sets to validate/verify color integrity throughout the program.

d. Upon approval by Omnitrans in writing, the contractor shall commence the work.

14. FIRST ARTICLE INSPECTION

The contractor shall perform paint and decal installation and if the option is exercised, full bus wrap services as described in the SOW for a First Article Inspection. The contractor shall provide a First Article vehicle within fifteen (15) working days following a Notice to Proceed (NTP) issued by Omnitrans in writing. Contractor will submit one (1) vehicle to Omnitrans for inspection and acceptance according to the scheduled submittal date(s) prior to proceeding with the remaining work within the SOW. Omnitrans will have five (5) working days to inspect and either accept or reject the First Article vehicle. Omnitrans reserves the right of final approval upon acceptance of the First Article bus.

15. NOTICE TO PROCEED WITH PAINT AND OPTIONAL FULL BUS WRAPS

Only after the approval of each First Article bus by Omnitrans, the Notice to Proceed will be issued by Omnitrans' Contract Administrator in writing for the contractor to proceed.

16. SCHEDULE AND PRODUCTION

- a. The contractor shall complete the entire project by June 30, 2013.
- b. Production
 - 1) Omnitrans shall provide at least three (3) but no more than four (4) buses at any given time for the contractor to complete their work.
 - 2) Contractor shall allow for adequate curing or drying time in between paint and decal installations. In addition, due to the anticipated level of coordination between the contractor and any subcontractor(s), an adequate amount of time is required to maximize quality and minimize schedule delays.

17. ACCEPTANCE AND ACCEPTANCE CRITERIA

- a. Upon completion of all authorized work, Omnitrans and/or its designee will inspect each vehicle for thoroughness and quality of work.
- b. In the event the performed work is found to be incomplete, substandard or unacceptable, payment shall be withheld until such work is acceptable.

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- c. The contractor shall have fourteen (14) calendar days from notice from Omnitrans to correct any incomplete, substandard, and/or unacceptable work.
- d. The following, among others, as deemed necessary, shall be used as the acceptance criteria by Omnitrans and/or its designee.

1) UNIFORMITY

Appearance is consistent over entire bus, both individual panels and between adjacent panels within a zone and throughout the bus.

2) COLOR UNIFORMITY

- a. The Color shall not vary from agreed upon colors. Colors shall be traceable back to Omnitrans' approved paint palettes.
- b. GLOSS (20 °) - The shininess of the painted surface utilizing a BYK Gardener Micro – TRI – or a HAZE & Gloss (20 degree) meter, or equivalent. Gloss measurements shall not be taken on non-metallic or contoured surfaces. Reading will only be taken as the bus exits the paint booth. Requirement shall be 80%.
- c. FILM THICKNESS OF THE PAINTED SURFACE
 - 1) All primer and topcoat film thickness shall be applied and measure in accordance with the pre-determined Paint Manufacturers Standards.
 - 2) The DFT will be the sum of coatings applied as per recommended DFT as supplied by PPG. The minimum DFT of paint shall equal three (3) mils. The total maximum DFT shall not exceed 0.020.
- d. PAINT SURFACE BLEMISHES – FISH EYES – BUBBLES/CRATERS - Small round depressions in the paint film which may or may not expose the underlying surface. This will be visually inspected and reported as applicable.
- e. DING - A localized depression or protrusion in the metal surface or substrate, which is visible after paint. This will be visually inspected (w/o) fluorescent light and reported as applicable.
- f. SOLVENT POP - Small holes in a paint film usually caused by trapped solvent or porosity. Solvent boils are small, clustered, raised but unbroken bubbles in a paint film surface. Visual

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evaluation. An acceptable criterion is for pinhole type solvent pops, which are visible from three (3) feet away.

- g. POLISH MARKS - Visible swirl marks or hazy marks, which are caused by polishing techniques viewed in reflected or non-reflecting lighting. Swirl marks or hazy marks, which are visible, are acceptable provided the loss meets the previously described standard.
- h. SAGS AND RUNS - Visual evaluation.
- i. SCRATCHES ON SURFACE OF PAINT FILM - visual Evaluation
- j. PINHOLES - Small holes in a paint film, usually in the area of fiberglass gel-coat parts (i.e. porosity). Visual evaluation.
- k. PAINT CHIPS - The absence of a small portion of the paint film. Visual Evaluation. Touch-up is acceptable if no color change.
- l. PAINT STRIPE AND PAINT BREAK
 - 1) A stripe is defined as any color less than eight (8) inches in width. A paint break is wider than eight (8) inches. Visual Evaluation. Paint stripes and paint breaks shall be free of chipping or loss of small portion of paint. When a single stage coating application process is used, with more than one color, there will be a ridge (*) where the adjacent colors meet.
 - 2) *This ridge is created by the different mil thickness of each color; most colors require a very different mil thickness to accomplish total "hiding".
 - 3) Mil thickness shall be applied and measured in accordance with the pre-determined Paint Manufacturers Standards. Touch up on paint stripe or paint break is acceptable if there is no color change.
 - 4) Touch-up, wet sand and polish are acceptable repairs.

18. TERMS OF WARRANTY

- a. The contractor shall provide 100% material warranty for color fading, bubbling, and/or disintegration and labor warrant for the complete project, which includes

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bus painting, decal installation/replacement for a period of six-years (6), unlimited mileage, beginning on the date of acceptance.

- b. As stated in Section 13 DECAL REQUIREMENTS, all manufacturing and installation of decals shall be in accordance with 3M or approved equal, MCS (Matched Component System) specifications to qualify for and maintain 3M warranty periods.
- c. If, during the warranty period, repairs or modifications on any vehicle, made necessary by defective materials or workmanship, are not completed due to lack of material or inability to provide the proper repair form thirty (30) calendar days, the applicable warranty period shall be extended by the number of days equal to the delay period.
- d. The warranties shall not apply to vehicles with defects resulting from misuse, negligence, or accidents.

19. WARRANTY REPAIR RESPONSE

The contractor will be required to respond to any warranty issues within three (3) working days.

ITEM # F3

DATE: January 9, 2013

TO: Board Chair Dick Riddell and Members of the Omnitrans Board of Directors

THROUGH: Milo Victoria, CEO/General Manager

FROM: Milind Joshi, sbX Program Manager

SUBJECT: AUTHORIZE AMENDMENT NO. 2, IPMO12-23, CONSULTING SERVICES – UTILITY, SCHEDULING AND ENVIRONMENTAL COMPLIANCE

FORM MOTION

Authorize the CEO/General Manager to execute Amendment No. 2 to increase Contract IPMO12-23 with APSI Construction Management, Irvine, California, by an additional \$440,900, plus a 10% contingency of \$44,090, and 3.27% Cost Allocation Plan of \$15,859, for a new total not to exceed amount of \$599,849, and extend the period of performance through project completion.

BACKGROUND & SUMMARY

Critical to the on-going construction activities are the coordination of existing utilities relocations, construction schedule maintenance and Project environmental compliance. The Federal Transit Administration (“FTA”) strongly recommended that Omnitrans augment current staff to provide Project 3rd party oversight. On May 2, 2012, the Board authorized the CEO/General Manager to execute an agreement with APSI Construction Management to provide these services through November 30, 2012. The CEO amended the contract to add the contingency of \$9,000 for a total not to exceed amount of \$99,000 and extend the agreement through December 30, 2012.

An informal competitive Request for Proposals (RFP) was issued for a qualification-based procurement prior to establishing the original six month agreement. In accordance with the FTA Circular 4220.1F, the recipient may make a sole source award in the case of a follow-on contract when it is likely that award to another contractor would result in substantial duplication of costs that are not expected to be recovered through competition or when an award to another contractor would result in unacceptable delays.

Once the construction project schedule is updated and current, essential efforts to pro-actively manage and mitigate schedule delays will be undertaken to support Omnitrans' meeting its contractual Revenue Operations Date of April 2014 as agreed to in the Project Construction Grant Agreement with the FTA.

FUNDING SOURCE

FUNDING	GRANT #	FISCAL YEAR	PROJECT NAME	AMOUNT*
FTA 5307	CA-90-Y775	2010	sbX E Street BRT	\$400,679
STA	10-09-OMNB	2010	sbX E Street BRT	\$100,170
			TOTAL	\$500,849

*\$99,000 approved and funded prior.

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

This procurement meets the requirements of Omnitrans' current Procurement Policy and Procedures Manuals.

CONCLUSION

If the Board does not approve Amendment No. 2 with APSI, the loss of schedule management and other 3rd party oversight services will create a gap in technical capability and capacity, adversely impacting on-going efforts to update and maintain monthly project schedules.

MV:JS

**AMENDMENT NO. 2 TO
CONTRACT NO. IPM012-23**

BETWEEN

OMNITRANS

AND

APSI CONSTRUCTION MANAGEMENT

sbX Project Schedule, Utility and Environmental Support Consulting Services

This Contract Amendment, effective December 31, 2012, is entered into by and between Omnitrans (hereinafter called "Agency") and APSI Construction Management (hereinafter called "Contractor").

RECITALS

WHEREAS:

- I. Agency and Contractor have entered into Contract No. IPM012-23 on May 2, 2012; and
- II. Effective November 2, 2012, Omnitrans amended the Contract under Amendment No. 1 to increase the contract funding authority by \$9,000, for a new total not-to-exceed amount of \$99,000, and extended the period of performance to December 30, 2012.
- III. The Agency and Contractor hereby agree to amend the Contract under Amendment No. 2 to extend period of performance from December 30, 2012 to December 30, 2013, and increase the contract funding authority by \$440,900, for a new total not-to-exceed amount of \$539,900.

NOW THEREFORE, it is mutually understood and agreed by Agency and Contractor that Contract No. IPM012-23 is hereby amended in the flowing particulars only:

1. Page 6 of 45, of Contract No. IPM012-23, amend the following items in the contract header box:
 - a. Delete Time and Material Total Contract Amount: "\$99,000" and replace with "\$539,900".
 - b. Delete Contract End Date: "12/30/2012" and replace with "12/30/2013".
 - c. Insert "\$9,000" in Amended Amount.

2. Section 5.1, Performance Period, Delete in its entirety and replace with:

“The period of performance shall be May 2, 2012 through December 30, 2013 or pursuant to the provisions of this Agreement, or unless earlier terminated pursuant to Section 16 of this Agreement.”

3. Section 12. COMPENSATION, Delete in its entirety and replace with:

For CONTRACTOR’s full and complete performance of its obligations under this Agreement, OMNITRANS shall pay CONTRACTOR on a FIXED PRICE basis at the fully burdened fixed rates shown in Attachment C, Labor Rates, plus reimbursement of any direct costs agreed to in accordance with the provisions of this Section, and subject to the maximum cumulative payment obligation.

OMNITRANS’ maximum cumulative payment obligation under this Agreement shall not exceed Five Hundred Thirty Nine Thousand Nine Hundred Dollars (\$539,900), including all amounts payable to CONTRACTOR for all costs, including but not limited to direct labor, other direct costs, subcontracts, indirect costs including, but not limited to, leases, materials, taxes, insurance, and profit.

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

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 2 effective as of the date first written above.

OMNITRANS

**APSI CONSTRUCTION
MANAGEMENT**

Milo Victoria
CEO/General Manager

Atul Apte
Associate Vice President

Date: _____

Date: _____

ITEM # F4

DATE: January 9, 2013

TO: Board Chair Dick Riddell and Members of the Omnitrans Board of Directors

THROUGH: Milo Victoria, CEO/General Manager

FROM: Donald Walker, Director of Finance

SUBJECT: INVESTMENT POLICY STATEMENT FOR 2013

FORM MOTION

Adopt Omnitrans' current Investment Policy Statement to carry forward for period covering January 1, 2013 through December 31, 2013.

This item was not submitted for review by the Administrative and Finance Committee as there were no changes made to the Board adopted Investment Policy Statement for the period covering January 1, 2012 through December 31, 2012.

BACKGROUND& SUMMARY

California Government Code Section 53646 requires that each legislative body review and adopt an Investment Policy Statement on an annual basis.

The Investment Policy Statement for 2012 was adopted by the Omnitrans Board of Directors on January 4, 2012, and there were no changes made to the Investment Policy Statement for calendar year 2013. During fiscal year 2013 (July 1, 2012 – June 30, 2013), Omnitrans will continue to employ the services of Union Bank for its general banking needs. Union Bank was awarded a five year contract beginning October 1, 2012 and ending no later than September 30, 2017.

At Union Bank, only the projected minimum amount is maintained in the general operating account. Proposition 1B funds are in a Government Managed Rate Account (GMRA). All other available cash funds are invested in the Local Agency Investment Fund (LAIF) in accordance with the Investment Policy Statement.

MV:DW



INVESTMENT POLICY STATEMENT

January 1, 2013 – December 31, 2013

1. POLICY

It is the policy of **OMNITRANS** to invest public funds in a manner which will provide maximum security with the highest investment return while meeting the daily cash flow demands of **OMNITRANS** and conforming to all state and local statutes governing the investment of public funds.

2. SCOPE

This investment policy applies to the cash funds of Omnitrans, except for its employees retirement system fund, which is administered separately by the California Public Employees' Retirement System (PERS) and the 457 Deferred Compensation Fund, administered separately by the International City/County Management Association Retirement Corporation.

These funds include Operating and Capital Funds.

3. OBJECTIVE

Investable funds shall be invested to the maximum extent feasible. The primary goal of the investment program is to maintain safety and liquidity of principal and interest while maximizing returns, minimizing risks and ensuring that funds are available to meet anticipated cash flow requirements.

In the investment of its funds, Omnitrans will be guided by the following principles in order of importance:

3(A) the primary objective is to safeguard investment principal.

- Safety

Safety and the minimizing of risk associated with investing refers to attempts to reduce the potential for loss of principal, interest or a combination of the two. The first level of risk control is found in state law which restricts the particular type of investments permissible for governmental entities. The second level of risk control is reduction of default risk by investing in instruments that appear upon examination to be the most credit worthy. The third level of risk control is reduction of market risk by investing in instruments that have maturities coinciding with planned dates of disbursement, thereby eliminating risk of loss from a forced sale.

3(B) the secondary objective is to maintain sufficient liquidity to ensure that funds are available to meet daily cash flow requirements.

- Liquidity

Liquidity refers to the ability to easily sell at any time with a minimal risk of losing some portion of principal or interest. Liquidity is an important quality for an investment to have, for at any time OMNITRANS may have unexpected or unusual circumstances that result in larger disbursements than expected, and some investments may need to be sold to meet the contingency. Most investments of OMNITRANS are highly liquid.

3(C) the third and last consideration is to achieve a reasonable rate of return or yield consistent with these objectives.

- Yield

Yield is the potential dollar earnings an investment can provide, and also is sometimes described as the rate of return. OMNITRANS attempts to obtain the highest yield possible when selecting an investment, provided that the criteria stated in the Investment Policy for safety and liquidity are met.

4. DELEGATION OF AUTHORITY

The CEO/General Manager, as the Treasurer of Omnitrans, is hereby authorized to invest or to reinvest the funds of Omnitrans, or to sell or exchange securities purchased all within the meaning, and as limited by the provisions of Government Code Section 53607.

The Chief Financial Officer is designated as the Investment Officer of the Agency and is responsible for investment decisions and activities, under the direction of the CEO/General Manager. In the absence of the Chief Financial Officer, the CEO/General Manager will designate the temporary Investment Officer.

5. RESPONSIBILITY OF INVESTMENT OFFICERS

Cash management and investment transactions are the responsibility of the Investment Officer. The Investment Officer, acting in accordance with written procedures and exercising due diligence, shall not be held personally responsible for a specific security's credit risk or market price changes, provided that these deviations are reported immediately and that appropriate action is taken to control adverse developments.

6. INDIVIDUALS AUTHORIZED TO UNDERTAKE INVESTMENT TRANSACTIONS

The following officials are authorized to implement the cash management and investment transactions decisions of the Investment Officer by undertaking investment transactions on behalf of Omnitrans:

- CEO/General Manager
- Chief Financial Officer
- Director of Finance
- Accounting Manager

7. PRUDENCE

Omnitrans operates its cash investments subject to the “Prudent Investor Standard” which obligates a fiduciary to ensure that:

When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the Agency, that a prudent person acting in the like capacity and familiarity with those matters would use in the conduct of funds of the like character and with like aims, to safeguard the principal and maintain the liquidity needs of the Agency.

Within the limitations of this standard and considering individual investments as part of an overall strategy, investments may be acquired as authorized by law.

8. SAFEKEEPING

The investment securities purchased by the Agency shall be held in safekeeping by a designated financial institution, during FY 2002-03 all accounts were moved to Union Bank. The institution shall issue a safekeeping receipt to the Agency listing the specific instrument, rate, maturity and other pertinent information.

Safekeeping procedures shall be reviewed annually by the independent auditor. The independent auditor shall conduct surprise audits of safekeeping and custodial systems.

9. ETHICS AND CONFLICTS

Officers and employees who are directly involved in the investment program shall refrain from personal business activity that could conflict with proper execution of the investment program or which could impair the ability to make impartial investment decisions.

10. MONITORING AND ADJUSTING THE PORTFOLIO

The Investment Officer will routinely monitor the contents of the portfolio, the available markets and the relative values of competing instruments, and will adjust the portfolio accordingly.

11. INTERNAL CONTROLS

Internal controls shall be reviewed annually by the independent auditor. The controls shall be designed to prevent a loss of public funds due to fraud, error, misrepresentation, unanticipated market changes or imprudent actions.

12. INVESTMENT PROCEDURES

The Finance Department is responsible for establishing separate investment procedures which adhere to and implement this Statement of Investment Policy.

13. REPORTING REQUIREMENTS

The Investment Officer shall, under the direction of the CEO/General Manager, generate a monthly report for management purposes which will include, but not be limited to:

- Type of investment
- Institution
- Date of maturity
- Amount of deposit or cost of security
- Rate of interest
- Statement relating the report to the Statement of Investment Policy
- Statement that there are sufficient funds to meet the next 30 days' obligations

14. SHORT-TERM VERSUS LONG-TERM PORTFOLIO

All funds invested for one day to six months shall be considered short-term. Funds invested for a period in excess of six months shall be considered long-term.

15. SHORT-TERM PORTFOLIO DIVERSIFICATION

The Agency will diversify use of investment instruments to avoid incurring unreasonable risk inherent in overinvesting in specific instruments, individual financial institutions or maturities.

Diversification by Instrument:

- U.S. Government Securities, or it's agencies
- Small Business Administration Loans
- Bankers Acceptance

- Commercial Paper
- Negotiable Certificates of Deposits
- Medium Term Notes
- Repurchase Agreements
- Local Agency Investment Fund (LAIF)
- California Asset Management Program (CAMP)
- California Local Agency Securities System (CLASS)

16. Maturity Scheduling:

- Investment maturities of operating funds shall be scheduled to coincide with projected cash flow needs, taking into account large routine expenditures (e.g. payroll, contractor's payments, lease payments, etc.) and considering sizeable blocks of anticipated revenue (e.g. LTF and Federal operating funds).

17. LONG-TERM PORTFOLIO DIVERSIFICATION

Instruments and diversification for the long-term portfolio shall be the same type as for the short-term portfolio, but with longer investment periods (over six months).

Maturity scheduling shall be timed according to anticipated needs.

18. AUTHORIZED INVESTMENTS (G.C. 53601)

The average maturity of Omnitrans' investments should not exceed two-and-one-half years, with no single investment being made for over five years, except with legislative approval as authorized under Section 53601 of the California Government Code. At no time should current cash flow requirements be jeopardized.

Omnitrans may invest in the following legal investments as defined in Section 53601 of the California Government Code: 53601. This section shall apply to a local agency that is a city, a district, or other local agency that does not pool money in deposits or investments with other local agencies, other than local agencies that have the same governing body. However, Section 53635 shall apply to all local agencies that pool money in deposits or investments with other local agencies that have separate governing bodies. The legislative body of a local agency having money in a sinking fund or money in its treasury not required for the immediate needs of the local agency may invest any portion of the money that it deems wise or expedient in those investments set forth below. A local agency purchasing or obtaining any securities prescribed in this section, in a negotiable, bearer, registered, or nonregistered format, shall require delivery of the securities to the local agency, including those purchased for the agency by financial advisers, consultants, or managers using the agency's funds, by book entry, physical delivery, or by third-party custodial agreement. The transfer of securities to the counterparty bank's customer book entry account may be used for book entry delivery. For purposes of this section, "counterparty" means the other party to the transaction. A counterparty bank's trust department or separate safekeeping department may be used for the physical delivery of the security if the security is held in the name of the local agency. Where this section specifies a percentage limitation for a particular category of investment, that percentage is applicable only at the date of purchase. Where this section does not specify a limitation on the term or remaining maturity at the time of the investment, no investment shall be made in any security, other than a security underlying a repurchase or reverse repurchase agreement or securities lending agreement authorized by this

section, that at the time of the investment has a term remaining to maturity in excess of five years, unless the legislative body has granted express authority to make that investment either specifically or as a part of an investment program approved by the legislative body no less than three months prior to the investment:

(a) Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency or by a department, board, agency, or authority of the local agency.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority of the state.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.

(e) Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises.

(f) Bankers acceptances otherwise known as bills of exchange or time drafts that are drawn on and accepted by a commercial bank. Purchases of bankers acceptances may not exceed 180 days' maturity or 40 percent of the agency's money that may be invested pursuant to this section. However, no more than 30 percent of the agency's money may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

This subdivision does not preclude a municipal utility district from investing any money in its treasury in any manner authorized by the Municipal Utility District Act (Division 6 (commencing with Section 11501) of the Public Utilities Code).

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and number rating as provided for by a nationally recognized statistical-rating organization (NRSRO). The entity that issues the commercial paper shall meet all of the following conditions in either paragraph (1) or paragraph (2):

(1) The entity meets the following criteria:

(A) Is organized and operating in the United States as a general corporation.

(B) Has total assets in excess of five hundred million dollars (\$500,000,000).

(C) Has debt other than commercial paper, if any, that is rated "A" or higher by a nationally recognized statistical-rating organization (NRSRO).

(2) The entity meets the following criteria:

(A) Is organized within the United States as a special purpose corporation, trust, or limited liability company.

(B) Has program wide credit enhancements including, but not limited to, over collateralization, letters of credit, or surety bond.

(C) Has commercial paper that is rated "A-1" or higher, or the equivalent, by a nationally recognized statistical-rating organization (NRSRO).

Eligible commercial paper shall have a maximum maturity of 270 days or less. Local agencies, other than counties or a city and county, may invest no more than 25 percent of their money in eligible commercial paper. Local agencies, other than counties or a city and county, may purchase no more than 10 percent of the outstanding commercial paper of any single issuer. Counties or a city and county may invest in commercial paper pursuant to the concentration limits in subdivision (a) of Section 53635.

(h) Negotiable certificates of deposit issued by a nationally or state-chartered bank, a savings association or a federal association (as defined by Section 5102 of the Financial Code), a state or federal credit union, or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposit do not come within Article 2 (commencing with Section 53630), except that the amount so invested shall be subject to the limitations of Section 53638. The legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or any person with investment decision-making authority in the administrative office manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or the supervisory committee of the state or federal credit union issuing the negotiable certificates of deposit.

(i) (1) Investments in repurchase agreements or reverse repurchase agreements or securities lending agreements of any securities authorized by this section, as long as the agreements are subject to this subdivision, including the delivery requirements specified in this section.

(2) Investments in repurchase agreements may be made, on any investment authorized in this section, when the term of the agreement does not exceed one year. The market value of securities that underlay a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities and the value shall be adjusted no less than quarterly. Since the market value of the underlying securities is subject to daily market fluctuations, the investments in repurchase agreements shall be in compliance if the value of the underlying securities is brought back up to 102 percent no later than the next business day.

(3) Reverse repurchase agreements or securities lending agreements may be utilized only when all of the following conditions are met:

(A) The security to be sold on reverse repurchase agreement or securities lending agreement has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale.

(B) The total of all reverse repurchase agreements and securities lending agreements on investments owned by the local agency does not exceed 20 percent of the base value of the portfolio.

(C) The agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

(D) Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty by way of a reverse repurchase agreement or securities lending agreement shall not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement or securities lending agreement, unless the reverse repurchase agreement or securities lending agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

(4) (A) Investments in reverse repurchase agreements, securities lending agreements, or similar investments in which the local agency sells securities prior to purchase with a simultaneous agreement to repurchase the security may only be made upon prior approval of the governing body of the local agency and shall only be made with primary dealers of the Federal Reserve Bank of New York or with a nationally or state-chartered bank that has or has had a significant banking relationship with a local agency.

(B) For purposes of this chapter, "significant banking relationship" means any of the following activities of a bank:

(i) Involvement in the creation, sale, purchase, or retirement of a local agency's bonds, warrants, notes, or other evidence of indebtedness.

(ii) Financing of a local agency's activities.

(iii) Acceptance of a local agency's securities or funds as deposits.

(5) (A) "Repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty will deliver the underlying securities to the local agency by book entry, physical delivery, or by third-party custodial agreement. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery.

(B) "Securities," for purpose of repurchase under this subdivision, means securities of the same issuer, description, issue date, and maturity.

(C) "Reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase the securities on or before a specified date and includes other comparable agreements.

(D) "Securities lending agreement" means an agreement under which a local agency agrees to transfer securities to a borrower who, in turn, agrees to provide collateral to the local agency. During the term of the agreement, both the securities and the collateral are held by a third party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

(E) For purposes of this section, the base value of the local agency's pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements, securities lending agreements, or other similar borrowing methods.

(F) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement and the earnings obtained on the reinvestment of the funds.

(j) Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated "A" or better by a nationally recognized rating service. Purchases of medium-term notes shall not include other instruments authorized by this section and may not exceed 30 percent of the agency's money that may be invested pursuant to this section.

(k) (1) Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations as authorized by subdivisions (a) to (j), inclusive, or subdivisions (m) or (n) and that comply with the investment restrictions of this article and Article 2 (commencing with Section 53630). However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement or securities lending agreement is not required to be a primary dealer of the Federal Reserve Bank of New York if the company's board of directors finds that the counterparty presents a minimal risk of default, and the value of the securities underlying a repurchase agreement or securities lending agreement may be 100 percent of the sales price if the securities are marked to market daily.

(2) Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.).

(3) If investment is in shares issued pursuant to paragraph (1), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations authorized by subdivisions (a) to (j), inclusive, or subdivisions (m) or (n) and with assets under management in excess of five hundred million dollars (\$500,000,000).

(4) If investment is in shares issued pursuant to paragraph (2), the company shall have met either of the following criteria:

(A) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(B) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars (\$500,000,000).

(5) The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that the companies may charge and shall not exceed 20 percent of the agency's money that may be invested pursuant to this section. However, no more than 10 percent of the agency's funds may be invested in shares of beneficial interest of any one mutual fund pursuant to paragraph (1).

(l) Moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease installment sale, or other agreement, or to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

(m) Notes, bonds, or other obligations that are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank that is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.

(n) Any mortgage pass-through security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable pass-through certificate, or consumer receivable-backed bond of a maximum of five years' maturity. Securities eligible for investment under this subdivision shall be issued by an issuer having an "A" or higher rating for the issuer's debt as provided by a nationally recognized rating service and rated in a rating category of "AA" or its equivalent or better by a nationally recognized rating service. Purchase of securities authorized by this subdivision may not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section.

53601.1. The authority of a local agency to invest funds pursuant to Section 53601 includes, in addition thereto, authority to invest in financial futures or financial option contracts in any of the investment categories enumerated in that section.

53601.5. The purchase by a local agency of any investment authorized pursuant to Section 53601 or 53601.1, not purchased directly from the issuer, shall be purchased either from an institution licensed by the state as a broker-dealer, as defined in Section 25004 of the Corporations Code, or from a member of a federally regulated securities exchange, from a national or state-chartered bank, from a savings association or federal association (as defined by Section 5102 of the Financial Code) or from a brokerage firm designated as a primary government dealer by the Federal Reserve bank.

53601.6. (a) A local agency shall not invest any funds pursuant to this article or pursuant to Article 2 (commencing with Section 53630) in inverse floaters, range notes, or mortgage-derived, interest-only strips.

(b) A local agency shall not invest any funds pursuant to this article or pursuant to Article 2 (commencing with Section 53630) in any security that could result in zero interest accrual if held to maturity. However, a local agency may hold prohibited instruments until their maturity dates. The limitation in this subdivision shall not apply to local agency investments in shares of beneficial interest issued by diversified management companies registered under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.) that are authorized for investment pursuant to subdivision (k) of Section 53601.

19. DESIGNATED AUTHORIZED INVESTMENTS

The listing shall be formally designated by Omnitrans and only investments from this designated list will be authorized.

California State Investment Pool (Local Agency Investment Fund or LAIF {Government Code Section 16429.1 – 16429.3}).

California Asset Management Program (CAMP {Government Code Section 6502; Section 53630; Section 53601 and/or 53635}).

California Local Agency Securities System (CLASS {Government Code Section 6502; Section 53630; Section 53601 and/or 53635}).

Whenever possible, bids and offers for any investment security shall be taken from a minimum of two security dealers/brokers, banks, and/or savings and loans. Awards shall be made to the highest responsible bidder or best offer.

All securities purchased must be held in safekeeping by Omnitrans' safekeeping agent, currently Union Bank. The securities shall not be held by the dealer or broker from whom they are purchased. Confirmations for all investments will be reviewed for conformity with the actual transactions. All financial institutions, whether investment banks, dealers, commercial banks or savings and loan institutions must be licensed by the National Association of Security Dealers (NASD) and be approved by the Chief Financial Officer before they receive Omnitrans funds or are able to conduct business with Omnitrans. Prior to approval, each financial institution will be physically visited by the Chief Financial Officer and/or his/her designee to meet with the principals of the firm and to inspect their offices for stability and financial capabilities. Further, these visitations will continue periodically, preferably annually, on an ongoing basis to ensure eligibility (due diligence). All firms with whom Omnitrans does business will have a strong capital base and be deemed creditworthy before conducting business with such firms. The Chief Financial Officer or his/her designee will prescribe minimum standards by which these firms can be judged creditworthy.

Generally, losses are acceptable on a sale of securities prior to maturity and should be taken if (a) the sale proceeds will enhance the overall yield over the life of the new security, or (b) there is a potential imminent risk of principal due to a change in the creditworthiness of the issuer or other factors jeopardizing the propriety or safety and liquidity of public funds.

Where possible, Omnitrans investments shall be placed, confirmed, held, accounted for, and/or audited by different people.

The Chief Financial Officer or his/her designee will perform a monthly review of the investment function. This review will consist of:

- Comparison of the investment records to the independent statements and confirmation notices received from brokers, dealers, banks and other financial institutions.
- Review of the contents of the investment portfolio to assure that it conforms with the provisions of this Statement of Investment Policy and the laws of the State of California.
- Review of the financial institutions with whom investments have been made to assure that they have been approved by the Chief Financial Officer.