



**BOARD OF DIRECTORS  
MAY 1, 2019  
SUPPLEMENTAL INFORMATION**

**ITEM #E12 – SOLE SOURCE CONTRACT SSR19-87 / ISD-19008, RADIO AND PAGER COMMUNICATION SYSTEM ACCESS**

**ITEM #E13 – INVITATION FOR BIDS, IFB-MNT19-17, CONCRETE BUS PAD CAL STATE UNIVERSITY SAN BERNARDINO (CSUSB)**

**ITEM #F7 – CONTRACT MKP19-19, ADVERTISING AND DESIGN SERVICES**

**ITEM #F8 – INVITATION FOR BIDS, IFB-STS19-61, DIESEL AND UNLEADED FUELS**

**ITEM #F9 – AMENDMENT 4, CONTRACT MNT15-52, MAINTENANCE, REPAIR, AND OPERATIONS (MRO) SUPPLIES**



F A S

**STANDARD CONTRACT**

**FOR COUNTY USE ONLY**

<input checked="" type="checkbox"/> New	FAS Vendor Code		<b>SC</b>	Dept.	<b>A</b>	Contract Number	
<input type="checkbox"/> Change						ISD-19008	
<input type="checkbox"/> Cancel							
ePro Vendor Number				ePro Contract Number			
County Department			Dept.	Orgn.	Contractor's License No.		
Information Services Department			ISD				
County Department Contract Representative				Telephone		Total Contract Amount	
Adrian Danczyk				(909)388-0534		\$61,547.40	
Contract Type							
<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input type="checkbox"/> Other:							
If not encumbered or revenue contract type, provide reason:							
Commodity Code		Contract Start Date	Contract End Date	Original Amount	Amendment Amount		
		7/1/2019	6/30/2024	\$61,547.40			
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No	Amount	
4020	120	040	75	9800	RADACCMINT	\$57,110.40	
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount	
4020	120	040	75	9800	PAGERACC	\$4,437.00	
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount	
						\$	
Project Name			Estimated Payment Total by Fiscal Year				
Radio Access & Maintenance			FY	Amount	I/D	FY	Amount
Pager Access			2019-20	\$12,309.48		2022-23	\$12,309.48
			2020-21	\$12,309.48		2023-24	\$12,309.48
Customer No. 6000-00VH			2021-22	\$12,309.48			\$

THIS CONTRACT is entered into in the State of California by and between the County of San Bernardino, hereinafter called the County, and

Name  
**Omnitrans**  
 Address  
 1700 West Fifth Street  
 San Bernardino, CA 92411-2401  
 Telephone (909) 379 - 7122      Federal ID No. or Social Security No.

hereinafter called Customer.

**IT IS HEREBY AGREED AS FOLLOWS:**

*(Use space below and additional bond sheets. Set forth service to be rendered, amount to be paid, manner of payment, time for performance or completion, determination of satisfactory performance and cause for termination, other terms and conditions, and attach plans, specifications, and addenda, if any.)*

**I. SAN BERNARDINO COUNTY 800 MHz RADIO COMMUNICATION SYSTEM ACCESS**

The 800 MHz Radio Communications System, hereinafter called System, is composed of two components known as the Backbone and Field Equipment. The Backbone is defined as that portion of the System that provides the means by which dispatch centers, public safety locations, mobile radios, and portable radios communicate with each other via voice transmission. It is composed primarily of fixed relay equipment and associated centralized dispatch and control equipment, including Mobile Data Access Modems owned and maintained by the County. Field Equipment is defined as that portion of the System that uses the Backbone for communications and consists primarily of local dispatch equipment, mobile radios, and portable radios. Specific charges for the services provided under this Agreement are set forth in Exhibit A, 800 MHz Radio Communications System Access/Paging Services and Payment Terms, as attached hereto and herein incorporated.

## **A. System Purpose and Objective**

The primary purpose of the System is to serve the County and accommodate participation by public safety and local governmental agencies in the County of San Bernardino. Secondly, other governmental and safety related non-governmental users may be allowed access to the System as conditions warrant and as provided for by this Agreement. During a disaster, public safety users will receive priority in all areas, based entirely on emergency response responsibilities and access to the System by non-public safety users may be limited or suspended.

## **B. Backbone Operational Policies**

Public safety and local governmental users shall have operational priority over all other users. In the case of a disaster, public safety users affected by the disaster shall have operational priority over all other public safety users, with County public safety users afforded the highest priority.

- 1) County has the final authority, at all times, to exercise discretionary control over the Backbone, and to otherwise manage Backbone traffic to insure the ability of immediate-need public safety agencies to effectively communicate and for the overall benefit of all Backbone users. EXCEPT FOR GROSSLY NEGLIGENT ACTS OR OMISSIONS IN EXERCIZING ITS AUTHORITY UNDER THIS SECTION, THE COUNTY WILL HAVE NO LIABILITY WHATSOEVER FOR SYSTEM ALLOCATION DECISIONS.

## **C. Backbone Modification (Post Backbone Implementation)**

- 1) The County may determine that Backbone modification is needed from time to time to meet the changing needs of County and/or users.
- 2) Costs for Backbone modifications made after the execution of this Agreement shall be assessed as follows:
  - (i) If the modification benefits all users, each user will bear the pro rata cost of the modification based on the user's derived benefit. Derived benefit shall be determined as a percentage based on the number of units that are in service by each end user divided by the total units being serviced by the Backbone infrastructure at the time the modification is made.
  - (ii) If the modification improves service only for users in a definable local area, all users in such definable local area, and participating in and receiving direct benefit from the modification, shall share the costs for its implementation, operation, and maintenance equally.
  - (iii) If the modification only applies to a specific subset of users, the subset of users that caused the modification shall share the costs of the modification its implementation, operation, and maintenance equally.
  - (iv) if the modification is requested by, and benefits only Customer, Customer shall bear the entire cost of the modification, its implementation, operation, and maintenance.
- 3) Customer acknowledges and agrees that the County is the sole decision-maker in determining the allocation of costs for all Backbone modifications.

#### **D. Field Equipment**

- 1) Customer shall, at Customer's expense and future financial liability, purchase and maintain its own Field Equipment.
- 2) Customer shall, at Customer's expense, expand or modify existing Customer structures, facilities, or dispatch centers as required to support the installation of Customer's Field Equipment.
- 3) Customer is solely responsible for ensuring that the Field Equipment is compatible with the System.

#### **E. Related Non-Governmental Users**

- 1) At times, Customer's non-governmental users may have a need to communicate with public safety/local government services during emergencies, or in their daily support of public safety/local government services. Where it is not in conflict with Federal Communications Commission (FCC) Regulations or other laws, and subject to approval by County, Customer's non-governmental users may be allowed Backbone access. However, Customer's non-governmental use of the Backbone for day-to-day operations shall be on a non-interfering, prioritized basis, and subject to channel loading limits, as determined by County.
- 2) County shall be responsible for coordinating Backbone access and implementing terms and conditions of such use, including one-time and recurring costs to be paid by new users.
- 3) County shall monitor non-governmental users of the Backbone. If the needs of public safety/local government expand to the point of competition with non-governmental use of the Backbone, Customer's non-governmental users may be required by the County to terminate their use of the Backbone.
- 4) Customer's non-governmental users will be removed in reverse order of their entry into the System, i.e., the last user to enter the System will be the first user to be removed unless any other Customer's non-governmental user voluntarily relinquishes access.
- 5) County will provide Customer ninety (90) days prior written notice of termination of access to allow Customer's non-governmental users to remove their equipment or transfer their operations to another communications system. At the expiration of the notice period, the Customer's non-governmental users will be denied access to the System.

#### **F. Backbone Ownership**

It is understood that County has ownership of the Backbone, and upon any termination of this Agreement by County or by Customer, any and all rights, title, and interest in the Backbone shall remain with the County.

## **II. MEGAHERTZ RADIO AND EQUIPMENT MAINTENANCE SERVICES**

The County of San Bernardino Information Services Department (ISD) offers a number of 800 MHz radio and equipment maintenance services to public safety and local governmental agencies in the County of San Bernardino, as well as other governmental and safety-related non-governmental users. Services provided under this Agreement consist of 800MHz Backbone radio equipment maintenance, 800 MHz mobile/portable radio equipment maintenance, Mobile Data Access Modems maintenance, 800 MHz radio dispatch equipment maintenance, and 800 MHz radio battery replacement. Specific charges for these services are set forth and attached hereto as Exhibit A, 800 MHz Radio Communications System Access/Paging Services and Payment Terms.

## **A. County Responsibilities in Providing Maintenance Services**

If providing maintenance services to Customer, ISD:

- 1) Will maintain sufficient spare mobile radios to temporarily replace equipment that is removed from service for maintenance reasons;
- 2) Will remove, reinstall and maintain Customer-owned radios or other covered equipment that has become defective from normal wear and usage, as solely determined by ISD, and perform repairs at ISD or elsewhere as determined by ISD;
- 3) Will provide a two-hour response time from notification for problems with radio dispatch equipment and Backbone radio equipment, and reasonable response time during normal County work hours on normal County business days for maintenance of Mobile Data Access Modems, and mobile/portable radios with after hours service available at premium rates;
- 4) Reserves the right to subcontract for all or part of services;
- 5) Assumes no liability for equipment failure in the field, or for any adverse consequences caused by such failed equipment;
- 6) Assumes no liability for failure to provide or delay in providing services, under this Agreement.

## **B. County Services Provided on a Time and Materials Basis**

- 1) Service required due to Customer abuse or abnormal wear;
- 2) Service to correct attempts by Customer or unauthorized third parties to repair or modify equipment;
- 3) Facility electrical problems at Customer location(s) or vehicle electrical problems;
- 4) Services in addition to those identified above, to the extent feasible and cost-effective, as determined by ISD;
- 5) Program or re-program radios at Customer's request or in response to abnormal wear and usage, except for County-originated systems reconfigurations;
- 6) Replacement of accessories and consumable items, including batteries, antennas, and microphone cords;
- 7) Radio reactivations are processed within 5 business days after the request is received, and are billed for each serial number reactivated at one-half of the Board-approved hourly rate in effect at the time reactivation is ordered.

## **C. Customer Responsibilities**

- 1) Customer shall procure its own Field Equipment and shall:
  - (i) Provide ISD with model and serial numbers of all equipment to be covered under this Agreement.
  - (ii) Designate an individual as the single point of contact for maintenance coordination.
  - (iii) Coordinate and schedule service requirements with ISD in advance whenever possible.

(iv) Advise ISD of all radio relocations or reassignments within their fleet, within 24-hours of relocation or reassignment.

- 2) It is Customer's sole responsibility to maintain a current inventory of its Field Equipment using the System and to approve and validate billing of that inventory. If Customer identifies discrepancies between billing and its inventory, a dispute notice should be sent by e-mail to [isdfinance@isd.sbcounty.gov](mailto:isdfinance@isd.sbcounty.gov) along with a justification and related documentation. If ISD determines that a charge was billed incorrectly, ISD will issue the applicable credit on the next monthly billing cycle.

### **III. EFFECTIVE DATE AND TERMINATION**

This Agreement shall commence on July 1, 2019, hereinafter Effective Date. This Agreement shall remain in effect for five (5) years from the Effective Date, unless the County or the Customer, terminates the Agreement by giving sixty (60) days prior written notice to the other. County may, at its sole discretion, opt not to terminate its services until replacement services are identified and in place; however, in no event shall County's services be continued beyond 120 days of the original written notice. Any such termination date shall coincide with the end of a calendar month. Neither party shall incur any liability to the other by reason of such termination.

### **IV. RATES AND PAYMENT TERMS**

Payment rates and conditions are set forth on Exhibit A, 800 MHz Radio Communications System Access/Paging Services and Payment Terms attached hereto. Services are provided and invoiced on a monthly basis starting on the Effective Date of the Agreement, or starting on the installation date, if applicable. Monthly payment shall be due upon receipt of invoice. If a change in service level is requested or required, County will provide to Customer a revised Exhibit A, incorporating such changes, which shall be signed by Customer and returned to County. Customer's subsequent invoice shall be adjusted in accordance with the changes, on a prorated basis, as necessary.

Exhibit A reflects the rates in effect at the execution of this Agreement. Any subsequent rate change shall become effective on July 1 of the County fiscal year (July 1 through June 30). County shall provide notice to Customer of rate change(s).

Customer's subsequent invoice shall be adjusted in accordance with the rate change(s). Checks shall be made payable to the County of San Bernardino.

Payment address is: Information Services Department  
670 E. Gilbert Street, First Floor  
San Bernardino, CA 92415-0915  
Attn: Administration Services

### **V. AGREEMENT AUTHORIZATION**

Customer warrants and represents that the individual signing this Agreement is a properly authorized representative of the Customer and has the full power and authority to enter into this agreement on the Customer's behalf.

### **VI. ASSIGNMENT**

The Customer may not assign this Agreement nor any rights, licenses or obligations hereunder, and any such assignment shall be void and without effect unless the County approves the assignment in writing.

## VII. DEFAULT

If the Customer does not make timely payment of amounts due under this Agreement or breaches any term or condition of this Agreement, County may declare immediately due and payable the entire unpaid amount, plus all other amounts due hereunder, less any unearned charges. County may also exercise all rights and remedies of a secure party under the Uniform Commercial Code (or other similar law) of the State of California and pursue any other remedies existing in law or in equity.

## VIII. INDEMNIFICATION AND INSURANCE

### A. Indemnification

The County agrees to defend and indemnify the Customer and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising solely out of the acts, errors or omissions of County in the performance of this Agreement, except where such indemnification is prohibited by law. At its sole discretion, Customer may participate at its own expense in the defense of any claim, action or proceeding, but such participation shall not relieve County of any obligation imposed by this Agreement. Customer shall notify County promptly of any claim, action or proceeding and cooperate fully in the defense. The Customer hereby agrees to defend and indemnify the County, its agents, officers and employees (hereafter collectively referred to in this paragraph as 'County') from any claim, action or proceeding against County, arising solely out of the acts or omissions of Customer in the performance of this Agreement. At its sole discretion, County may participate at its own expense in the defense of any such claim, action or proceeding, but such participation shall not relieve Customer of any obligation imposed by this Agreement. County shall notify Customer promptly of any claim, action or proceeding and cooperate fully in the defense. In the event that County and/or Customer are determined to be comparatively at fault for any claim, action, loss or damage that results from their respective obligations under this Agreement, County and/or Customer shall indemnify the other to the extent of its comparative fault.

### B. Insurance

Customer agrees to provide insurance set forth in accordance with the requirements herein. If Customer uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, Customer agrees to amend, supplement or endorse the existing coverage to do so.

- 1) Additional Insured – All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies, shall contain endorsements naming the County and its officers, employees, agents and volunteers as additional insured with respect to liabilities arising out of the performance of services hereunder.
- 2) Waiver of Subrogation Rights – Customer shall require the carriers of required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit Customer and Customer's employees or agents from waiving the right of subrogation prior to a loss or claim. Customer hereby waives all rights of subrogation against the County.
- 3) Policies Primary and Non-Contributory – All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.
- 4) Severability of Interests – Customer agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between Customer and the County or between the County and any other insured or additional insured under the policy.

- 5) Proof of Coverage – Customer shall furnish Certificates of Insurance to ISD evidencing the insurance coverage, including endorsements, as required, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to ISD, and Customer shall maintain such insurance for three (3) years after termination of the Agreement. Within fifteen (15) days of the commencement of this contract, Customer shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.
- 6) Acceptability of Insurance Carrier – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum Best Insurance Guide rating of A- VII.
- 7) Deductibles and Self-Insured Retention - Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.
- 8) Failure to Procure Coverage – In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, the County has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by the County will be promptly reimbursed by Customer.
- 9) Insurance Review – Insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.
- 10) Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this contract. Customer agrees to execute any such amendment within thirty (30) days of receipt.
- 11) Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.
- 12) Without in anyway affecting the indemnity herein provided and in addition thereto, the Customer shall secure and maintain throughout the contract term the following types of insurance with limits as shown:
  - (i) Workers' Compensation/Employers Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of Customer and all risks to such persons under this contract.
  - (ii) Commercial/General Liability Insurance –Customer shall carry General Liability Insurance covering all operations performed by or on behalf of Customer providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:
    - a. Premises operations and mobile equipment
    - b. Products and completed operations
    - c. Broad form property damage (including completed operations)

- e. Explosion, collapse and underground hazards
- f. Personal injury
- g. Contractual liability
- h. \$2,000,000 general aggregate limit

(iii) Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If Customer is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If Customer owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

(iv) Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a dropdown provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

## **IX. TERMINATION OR SUSPENSION OF SERVICES**

### **A. Immediate Suspension, Uncured Termination**

The County may, in its sole discretion and without prior notice, immediately suspend all or part of the Services for breach of any of the conditions identified below. The County will provide Customer a written notice of breach and allow the Customer 30 days to correct the condition giving rise to such breach. If the Customer fails to remedy the breach within the 30-day cure period, the County may immediately terminate the Services with no further notice required.

- 1) Customer shall ensure that it has all necessary licenses and permits required by the laws of the United States, State of California, County of San Bernardino and all other appropriate governmental agencies, and agrees to maintain these licenses and permits in effect for the duration of the Agreement. Customer shall notify County immediately of loss or suspension of any such licenses and permits. Customer shall comply with all applicable laws, statutes, ordinances, administrative orders, rules or regulations relating to its duties, obligations and performance under the terms of the Agreement.
- 2) Customer shall comply with all applicable laws, statutes, ordinances, administrative orders, rules or regulations relating to its duties, obligations and performance under the terms of the Agreement.
- 3) Customer represents and warrants to County that (i) the information Customer provides in connection with registration for the Services is accurate and complete; (ii) Customer's use of the System is not illegal, defamatory, malicious, harmful, or discriminatory based on race, sex, religion, nationality, disability, sexual orientation, or age; (iii) Customer's use of the Services complies with all applicable laws, rules and regulations; (iv) Customer has obtained all consents and licenses required to legally access and use the System; (v) the execution and delivery of this Agreement will not conflict with, or violate any provision of, Customer's charter, by-laws or other governing documents; and (vi) Customer has otherwise taken all necessary steps to legally execute this Agreement.
- 4) Customer agrees to abide by all existing and future security practices, policies and protocols established by the County, which the County has established to ensure the integrity of the System.

Customer understands that the County closely monitors the System and may perform periodic security audits.

- 5) Customer agrees to implement measures that are reasonable for Customer's use of the System to prevent interference with the operation of the System. NEITHER COUNTY NOR ANY OF ITS EMPLOYEES, AGENTS, REPRESENTATIVES, SERVICE SUPPLIERS OR LICENSORS WILL BE LIABLE FOR UNAUTHORIZED ACCESS TO, MISUSE OF, CUSTOMER'S INABILITY TO ACCESS, OR DAMAGE TO THE SYSTEM OR CUSTOMER'S FIELD EQUIPMENT, UNLESS AND ONLY TO THE EXTENT THAT THIS DISCLAIMER IS PROHIBITED BY APPLICABLE LAW.

## **B. Immediate Termination**

The County may, in its sole discretion and without prior notice, immediately suspend or terminate all or part of the Services for any of the conditions identified below. The County will promptly provide Customer a written notice of termination or suspension of Services to Customer.

- 1) County discovers that Customer provided false registration information, or that Customer lacked the capacity to enter into this Agreement at the time of its consummation;
- 2) County determines, in its sole discretion, that Customer's use of the Services poses a threat to the security or performance of the System or to any of County's other users or suppliers;
- 3) County determines, in its sole discretion, that Customer's use of the Services is illegal;
- 4) County reasonably believes that Customer's use of the Services has or will subject County to civil or criminal liability;
- 5) Customer fails to make any payment when due; or
- 6) Customer breaches any of the other material terms and conditions in this Agreement.

## **X. GENERAL TERMS AND CONDITIONS**

- A. Permits** - Customer is responsible for obtaining and paying any costs of all permits, licenses or approvals by any regulatory bodies having jurisdiction over the uses authorized herein, as appropriate.
- B. Attorneys' Fees.** If any legal action is instituted to enforce any party's rights hereunder, each party agrees to bear its own attorneys' fees and costs regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Section VIII(A)(a) Indemnification.
- C. Waiver** - No waiver of a breach of any provision of this Agreement shall constitute a waiver of any other breach, or of such provision. Failure of County to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. The remedies herein reserved shall be cumulative and additional to any other remedies in law or equity.
- D. Validity** - The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.
- E. Caption and Paragraph Headings** - Captions and paragraph headings used herein are for convenience only and are not a part of this agreement and shall not be used in construing it.

**F. Exhibits** - All Exhibits attached hereto, if any, are an integral part of this Agreement and are incorporated herein by reference.

**G. Entire Agreement** - This Agreement shall be governed by the laws of the State of California and constitutes the entire Agreement between the parties and supersedes all prior negotiations, discussions, and preliminary understanding. This Agreement may be amended as County and the Customer mutually agree in writing. Any such amendment must be in a physical writing and manually signed by authorized representatives of the County and Customer.

**H. Notifications** - All notices or demands required or permitted to be given or made hereunder shall be in writing and shall be deemed duly given: (a) Upon actual delivery, if given in person; (b) upon receipt, as evidenced by transmission confirmation, if sent by facsimile; (c) within three (3) days after deposit if sent via United States First Class mail, postage prepaid; or (d) upon receipt as evidenced by proof of delivery if sent by commercial overnight courier. Each such notice is to be sent to the respective party at the address indicated below or to any other address or person that the respective parties may designate by written notice delivered pursuant hereto:

Customer: Omnitrans  
1700 West Fifth Street  
San Bernardino, CA 92411-2401  
Attention: Christine Van Matre

County: County of San Bernardino  
Information Services Department  
670 E. Gilbert Street, First Floor  
San Bernardino, CA 92415-0915  
(909) 388-5555  
Attn: Administration Services

## **XI. INFORMATION SERVICES DEPARTMENT AUTHORIZATION**

The County's Information Services Department, through the Chief Executive Officer or its Chief Information Officer or designee, is authorized to discharge all functions ascribed to County in this Agreement, except those specifically reserved by law to the Board of Supervisors.

## **XII. FORCE MAJEURE**

County shall not be held liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence, such as acts of God, acts of civil or military authority, government regulations, strikes, labor disputes, embargoes, epidemics, war, terrorist acts, riots, insurrections, fire, explosions, earthquakes, nuclear accidents, floods, power blackouts, brownouts, or surges, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure product or services of other persons or transportation facilities, or acts or omissions of transportation common carriers.

IN WITNESS WHEREOF, the parties have hereto executed this Agreement on the date set forth below their respective signatures.

COUNTY OF SAN BERNARDINO

OMNITRANS

▶ \_\_\_\_\_  
Jennifer Hilber, Chief Information Officer

\_\_\_\_\_  
*(State if corporation, company, etc.)*

Dated \_\_\_\_\_

By ▶ \_\_\_\_\_  
*(P. Scott Graham)*

Dated \_\_\_\_\_

Title CEO/General Manager

Address 1700 West Fifth Street, San Bernardino, CA 92411

Approved as to Legal Form  
▶ \_\_\_\_\_  
Bonnie Uphold, Deputy County Counsel  
Date \_\_\_\_\_

Reviewed by Contract Compliance  
\_\_\_\_\_  
Date \_\_\_\_\_

**EXHIBIT A**

**800 MHz RADIO COMMUNICATIONS SYSTEM ACCESS/PAGING SERVICES  
AND PAYMENT TERMS**

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**PAYMENT SCHEDULE**

**Monthly Invoicing:** County will invoice Customer monthly for services rendered.

Payments are due upon receipt of invoice and payable within sixty (60) days of invoice date.

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**CHARGES FOR SERVICES**

<b>Service(s)</b>	<b>No of Units</b>	<b>Monthly Unit Charge</b>	<b>Monthly Charge</b>
Radio Access & Maintenance	16	\$59.49	\$951.84
Pager Access	5	\$14.79	\$73.95
<b>Total Estimated Monthly Cost</b>			<b>\$1,025.79</b>
<b>Total Estimated Yearly Cost</b>			<b>\$12,309.48</b>



**CONTRACT AGREEMENT**

between

CONTRACTOR )  
Access Pacific, Inc. )  
755 E. Washington Blvd. )  
Pasadena, CA 91104 )

(hereinafter "CONTRACTOR") )  
Main Contact: Larry Zepeda, Operations )  
Telephone: (626) 792-0616 )  
Email: larry@accesspacificinc.com )

Remit Address )

And )

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

**CONTRACT DOCUMENTS**  
**CONTRACT NO. MNT19-17**  
**CONCRETE BUS PAD CALIFORNIA**  
**STATE UNIVERSITY SAN**  
**BERNARDINO (CSUSB)**

Contract Amount: \$139,411.50

Omnitrans Project Manager:  
Name: Tom Dahlin  
Title: Capital Projects Services Mgr.  
Telephone: (909) 379-7215  
Email:  
[thomas.dahlin@omnitrans.org](mailto:thomas.dahlin@omnitrans.org)

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



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This Agreement is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2019 by and between Omnitrans (hereinafter referred to as "OMNITRANS") and Access Pacific, Inc. (hereinafter referred to as "CONTRACTOR").

## **RECITALS**

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

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

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

### **1. SCOPE OF WORK**

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

### **2. PERIOD OF PERFORMANCE**

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

Omnitrans' election to extend the Agreement beyond the Initial Term shall not diminish its right to terminate the Agreement for Omnitrans' convenience or CONTRACTORS default as provided elsewhere in this Agreement.

### **3. CONTRACT OPTIONS**

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

### **4. COMPENSATION**

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

OMNITRANS' maximum cumulative payment obligation under this Agreement shall not exceed One Hundred Thirty-Nine Thousand Four Hundred Eleven Dollars and fifty cents (\$139,411.50), 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.

### **5. INVOICING AND PAYMENT**

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

CONTRACTOR shall submit invoices in duplicate to:

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

[Accountspayable@omnitrans.org](mailto:Accountspayable@omnitrans.org)

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

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

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

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

- C. TITLE

a. Title shall pass to Omnitrans at the time of payment.

b. The title transferred as above shall in each case be good, and free and clear from any and all security interests, liens, and/or other encumbrances.

c. The transfer of title as specified above shall not imply Acceptance by Omnitrans, nor relieve the Contractor from the responsibility for strict compliance with the Contract, including warranty as specified in the Article entitled Warranty of Work, and for any loss of or damage to the Work.

d. The Contractor at its own expense shall promptly execute, acknowledge, and deliver to the Omnitrans proper bills of sale or other written instruments of title in a form as required by Omnitrans; said instruments shall convey to

the Omnitrans' title free and clear of debts, claims, liens, mortgages, taxes, and/or encumbrances.

e. Contractor shall have title to and bear the risk of any loss of or damage to Work purchased hereunder until they are delivered, unloaded, and received by Omnitrans at the FOB Destination specified herein. Contractor's responsibility for loss or damage except for loss or damage resulting from Contractor's negligence, shall cease when title passes to Omnitrans.

## 6. AUDIT AND INSPECTION OF RECORDS

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

## 7. NOTIFICATION

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

To OMNITRANS:

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

To CONTRACTOR:

Access Pacific, Inc.  
755 E. Washington Blvd.  
Pasadena, CA 91104  
Attn: Tomas Torres  
Title: President  
[tomas@accesspacificinc.com](mailto:tomas@accesspacificinc.com)  
cc: [jessica@accesspacificinc.com](mailto:jessica@accesspacificinc.com)

## **8. OMNITRANS' AND CONTRACTOR'S REPRESENTATIVES**

### **A. OMNITRANS' Project Manager**

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

Project Manager: Thomas Dahlin, Capital Projects Services Manager

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

**B. Contractor’s Key Personnel**

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

<u>Name</u>	<u>Role</u>	<u>Email</u>
Jazmin Basilio	Project Manager	<a href="mailto:jazmin@accesspacificinc.com">jazmin@accesspacificinc.com</a>
German Reyes	Superintendent	german@accesspacificinc.com

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

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

**9. DISPUTE RESOLUTION**

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

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

## **10. TERMINATION FOR CONVENIENCE**

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

## **11. TERMINATION FOR BREACH OF AGREEMENT**

- A. If CONTRACTOR fails to perform any of the provisions of this Agreement or so fails to make progress as to endanger timely performance of this Agreement, OMNITRANS may give CONTRACTOR written notice of such default. If CONTRACTOR does not cure such default or provide a plan to cure such default which is acceptable to OMNITRANS within the time permitted by OMNITRANS, then OMNITRANS may terminate this Agreement due to CONTRACTOR's breach of this Agreement.
- B. If a federal or state proceeding for relief of debtors is undertaken by or against CONTRACTOR, or if CONTRACTOR makes an assignment for the benefit of creditors, then OMNITRANS may immediately terminate this Agreement.
- C. If CONTRACTOR violates Section 28, Compliance with Lobbying Policies, of this Agreement, then OMNITRANS may immediately terminate this Agreement.
- D. In the event OMNITRANS terminates this Agreement as provided in this Section, OMNITRANS may procure, upon such terms and in such manner as OMNITRANS may deem appropriate, work similar in scope and level of effort to those so terminated, and CONTRACTOR shall be liable to OMNITRANS for all of its costs and damages, including, but not limited, any excess costs for such Work.
- E. All finished or unfinished documents and materials produced or procured under this Agreement shall become OMNITRANS' property upon date of such termination.
- F. If, after notice of termination of this Agreement under the provisions of this Section, it is determined for any reason that CONTRACTOR was not in default under the provisions of this Section, or that the default was

excusable under the terms of this Agreement, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Section 10, Termination for Convenience.

- G. The rights and remedies of OMNITRANS provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

**12. ASSIGNMENT**

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

**13. SUBCONTRACTING**

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

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

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

<b>Subcontractor's Name and Address</b>	<b>Work to Be Performed</b>	<b>Amount</b>
Superior Pavement Markings, Inc. PO Box 278 Beaumont, CA 92223	Traffic Signs, Thermoplastic Striping and Pavement Markers	\$6,285

Interstate Concrete Cutting PO Box 789 Riverside, CA 92502	Concrete/Asphalt Cutting	\$1,185
Traffic Management, Inc. 2712 E. La Cadena Riverside, CA 92507	Traffic Control Planning	\$1,728

**14. INDEPENDENT CONTRACTOR**

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

**15. INSURANCE**

**A. INSURANCE REQUIREMENTS**

**1) General Requirements for Contractor**

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

**2) Deductibles or Self-Insured Retention (SIR)**

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

**3) Other Insurance Provisions**

**a. Commercial General Liability and Automobile Liability**

Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed operations liability, personal and advertising injury

covering claims which may arise from or out of Contractor's performance of its obligations hereunder and if Contractor's vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then Contractor shall maintain liability insurance for all owned, non-owned or hired vehicles so used. Policy shall name Omnitrans, its officers, officials, employees, agents and volunteers as additional insured as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations of the scope of protection afforded Omnitrans, its officers, officials, employees, agents, and volunteers.

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

**b. Workers' Compensation**

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

**c. Care, Custody, and Control**

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

4) **Acceptability of Insurers**

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

5) **Verification of Coverage**

- a. Contractor shall furnish Omnitrans with original endorsements affecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All insurance certificates and endorsements are to be received and approved by Omnitrans before work commences.
- b. As an alternative, Contractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.
- c. In lieu of purchasing insurance and providing original endorsements and or certificates of insurance, the Contractor may provide proof of self-insurance; such proof must be to the satisfaction of Omnitrans.

6) **Subcontractors**

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

7) **Notification of Terminated Insurance**

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

**B. MINIMUM INSURANCE COVERAGE**

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

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

- 3)  **Errors and Omissions Liability:** \$1,000,000; combined single limit bodily and property damage liability per occurrence and \$ 3,000,000 aggregate or,
- 4)  **Professional Liability:** \$1,000,000; per occurrence and aggregate.
- 5)  **Workers' Compensation:** statutory limits or,
- 6)  **Self Insurance Program:** a State Approved program in an amount and form that meets all applicable requirements of the Labor Code of the State of California.
- 7)  **Employer's Liability:** \$1,000,000; per occurrence.
- 8)  **Environmental Liability:** \$1,000,000; per occurrence and aggregate; *Omnitrans named and endorsed as an Additional Insured.*
- 9)  **Umbrella Policy:** \$4,000,000; per occurrence and aggregate Additional coverage for the above policies, *Omnitrans Additional Insured.*
- 10)  All drivers making deliveries of products specified on this solicitation shall have Hazardous Materials Endorsements on their Commercial Drivers License, and such other Endorsements as may be required by relevant laws and/or regulations.

## 16. INDEMNITY

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

## 17. REVISIONS IN SCOPE OF WORK

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

## **18. RIGHTS IN TECHNICAL DATA**

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

## **19. OWNERSHIP OF REPORTS AND DOCUMENTS**

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

## **20. OWNERSHIP RIGHTS**

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

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

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

## **21. WORK FOR HIRE**

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

## **22. SUBMITTAL OF CLAIMS BY CONTRACTOR**

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

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

## **23. EQUAL OPPORTUNITY**

CONTRACTOR shall not discriminate against, or grant preferential treatment to, any individual or group, or any employee or applicant for employment because of race, age, religion, color, ethnicity, sex, national origin, ancestry, physical disability, mental disability, political affiliation, sexual orientation, marital status or other

status protected by law. CONTRACTOR shall take action to ensure that applicants and employees are treated without regard to the above.

#### **24. STANDARD OF PERFORMANCE**

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

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

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

#### **26. DISQUALIFYING POLITICAL CONTRIBUTIONS**

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

subcontractor(s) to Omnitrans Board Members/Alternates or employees within the preceding twelve (12) months of the date of the proposed amendment. Applicable contributions include those made by any agent/person/entity on behalf of CONTRACTOR or subcontractor(s).

## **27. COMPLIANCE WITH LAW**

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

## **28. COMPLIANCE WITH LOBBYING POLICIES**

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

## **29. PUBLIC RECORDS ACT**

- A. All records, documents, drawings, plans, specifications and other material relating to conduct of OMNITRANS' business, including materials submitted by CONTRACTOR in its proposal and during the course of performing the Work under this Agreement, shall become the exclusive property of OMNITRANS and may be deemed public records. Said materials may be subject to the provisions of the California Public Records Act. OMNITRANS' use and disclosure of its records are governed by this Act.
- B. OMNITRANS will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records

Act, including interpretations of the Act or the definitions of trade secret, confidential or proprietary. OMNITRANS will accept materials clearly and prominently labeled "TRADE SECRET" or "CONFIDENTIAL" or "PROPRIETARY" as determined by CONTRACTOR. OMNITRANS will endeavor to notify CONTRACTOR of any request of the disclosure of such materials. Under no circumstances, however, will OMNITRANS be liable or responsible for the disclosure of any labeled materials whether the disclosure is required by law or a court order or occurs through inadvertence, mistake or negligence on the part of OMNITRANS or its officers, employees and/or contractors.

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

### **30. WAIVER/INVALIDITY**

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

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

### **31. FORCE MAJEURE**

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

### **32. CONFIDENTIALITY**

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

entity, either by statement, deposition, or as a witness, except upon direct prior written authority of OMNITRANS.

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

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

### **34. GOVERNING LAW**

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

### **35. MODIFICATIONS TO AGREEMENT**

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

### **36. LICENSING, PERMITS AND INSPECTION COSTS**

- A. The CONTRACTOR warrants that it has all necessary licenses and permits required by the laws of the United States, State of California, and the County of San Bernardino, the Local Jurisdictions, and all other appropriate governmental agencies, and agrees to maintain these licenses and permits

in effect for the duration of the Agreement. Further, FIRM warrants that its employees, agents, and contractors and subcontractors shall conduct themselves in compliance with such laws and licensure requirements including, without limitation, compliance with laws applicable to nondiscrimination, sexual harassment and ethical behavior throughout the duration of this Agreement. CONTRACTOR further warrants that it shall not retain or employ an unlicensed subcontractor to perform work on this Project. CONTRACTOR shall notify OMNITRANS immediately and in writing of its employees', agents', contractors' or subcontractors' inability to obtain or maintain, irrespective of the pendency of any appeal, any such licenses, permits, approvals, certificates, waivers, exemptions. Such inability shall be cause for termination of this Agreement.

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

### **37. PRECEDENCE**

- A. Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence:
  - 1) Change Orders and Modification after execution of Agreement
  - 2) Agreement including all exhibits, attachments, appendices, Supplements and Addenda reference therein, with later Addenda having priority over earlier Addenda
  - 3) Permit and Permit Documents
  - 4) Technical Specifications
  - 5) Drawings and Plans
  - 6) Special Provisions
  - 7) General Provisions
- B. Change orders, supplemental agreements and approved revisions to plans and specifications will take precedence over documents listed above. Detailed plans shall have precedence over general plans. Unless otherwise specified all work shall be constructed in accordance with the General Provisions, Technical Specifications, Project Plans, and the 2012 edition of the Standard Specifications for Public Works Construction "Green Book" and other standards noted within the IFB.

**38. ENTIRE AGREEMENT**

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

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

OMNITRANS

ACCESS PACIFIC, INC.

\_\_\_\_\_  
P. Scott Graham  
CEO/General Manager

\_\_\_\_\_  
Tomas Torres  
President

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Federal Tax I.D. No. 80-0499951

CM \_\_\_\_\_

**ATTACHMENT A**  
**GENERAL DESCRIPTION OF WORK/SPECIFICATIONS/DRAWINGS**  
**MNT19-17**  
**CONCRETE BUS PAD CSUSB**

**1. GENERAL DESCRIPTION OF WORK**

- A. Contractor shall complete work between the June 17, 2019 through August 25, 2019. Notice to Proceed (NTP) will be issued in advance of initiation of physical work.
- B. Work shall consist of removal and replacement of existing asphalt pavement with concrete pavement, thermoplastic striping of words, crosswalks, lane re-striping, and associated roadway signage.
- C. Improvements are located in the following jurisdictions: The County of San Bernardino, City of San Bernardino, and within the campus of the California State University, San Bernardino (CSUSB). All work shall be performed within the existing CSUSB Right of Way.
- D. Prior to any work being done, the Contractor shall be required to obtain a temporary encroachment permit including any additional requirements for street construction from all individual jurisdictions. Contractor and subcontractors conducting work on the project are required to have a separate Right of Way permit from each jurisdiction for the duration that the Contractor will be conducting work in the jurisdiction's Right of Way.
- E. Prime Contractor is required to have a Class A - General Engineering Contractor license.
- F. See construction notes sheet and technical provisions for additional notifications and requirements.

**2. SPECIFICATIONS**

Refer to the Section: Technical Provisions:

**3. DRAWINGS**

Refer to attached plan sheets.

\*End of Scope of Work\*

## **TECHNICAL PROVISIONS**

### **CONSTRUCTION MATERIAL, METHOD, MEASUREMENT AND PAYMENT**

#### **BID ITEM 1 – MOBILIZATION**

##### **Method**

Mobilization shall consist of preparatory work and operations, securing all permits/approvals from each individual jurisdiction and licenses (business license), paying all fees, including, but not limited to, those necessary for the movement of personnel, equipment, supplies and incidentals to the project site; and other facilities necessary for work on the project; and for all other work and operations which must be performed or costs incurred prior to beginning work on the various contract items on the project site.

Construction surveying shall be performed by a state licensed land surveyor.

Re-mobilizations as needed in all circumstances by the Contractor's operations, work sequencing, scheduling, revised schedules, and for all work shall be included in various other pay items. No separate payment or change orders will be allowed for any re-mobilizations related to additive alternate work and the cost of these remobilizations shall be included in the additive alternate work pay items.

Demobilization shall consist of removal of all personnel, equipment, supplies and incidentals away from the project site after the completion of the project.

##### **Measurement and Payment**

The contract unit price for Mobilization shall be on a lump sum (LS) basis as defined in Section 7 and Section 8-6 of the Standard Specifications for Public Works Construction (SSPWC), but not limited to all activities, equipment, supplies, materials, transportation, facilities, and cleanup, and the movement of personnel, equipment, supplies, and incidentals to the project site; for the establishment of all offices, buildings and other facilities necessary for the work on this project; and for all other work and operations of the Contractor's forces which must be performed or cost incurred, without other pay items on the various contract items under the Contract. Payment shall be made as the work proceeds and shall constitute full compensation for the completion of the work. No additional compensation will be allowed.

## **BID ITEM 2 – TRAFFIC CONTROL SYSTEM**

### **Method**

It shall be the Contractor's responsibility to furnish detailed Traffic Detour and Control Plans for all modes of traffic (vehicular, pedestrian, bicycle, etc.) to CSUSB and Omnitrans' Project Manager (PM) where work to be performed for approval. Traffic Detour and Control plans shall be prepared by a California registered Civil Engineer and submitted for plan checking prior to the start of construction.

Said plan shall identify construction phasing, which shall not disrupt existing traffic circulation patterns. Delineation shall be in accordance with the latest version of the California Manual on Uniform Traffic Control Devices (CA MUTCD) as approved by the City Engineer.

All work shall conform to the Standard Specifications for Public Work Construction (SSPWC) and the CA MUTCD. Unless otherwise specified, this item shall include full compensation for street and sidewalk closures, detours, grading, restoration, signs, flagmen, barricades, flashers, temporary striping, removal and replacement of miscellaneous signs, temporary signal modifications/operations, fences and all appurtenances related to providing traffic control for the project.

No street or access closure to through traffic will be allowed to be proposed or implemented without the **written** approval of the CSUSB campus Director of Facilities Planning, Design and Construction, and the corresponding City Engineer.

Steel plate covers shall be installed over all open trenches at the close of construction each day so that a minimum of one (1) travel lane in each direction can be maintained during non-construction hours. Recess (flush) and pin in place the installation of steel plates is required on all asphalt streets and ramping (1v:24h) with asphalt is required on all concrete streets.

Convenient and safe pedestrian access to occupied CSUSB property shall be maintained at all times. Both vehicular and pedestrian access shall be maintained at all times to all other property except as otherwise specifically authorized in writing by each jurisdiction.

**NOTIFICATION:** Contractor shall give written and reasonable notice to the Omnitrans PM and CSUSB at least (5) working days prior to the beginning of construction. The notification shall include the date and time of street closures, parking and traffic access information and requirements, and precautionary information regarding the work to be done. A copy of all notifications shall be submitted to the Omnitrans PM and CSUSB for approval.

**ACCESS TO DRIVEWAYS:** Contractor shall provide notification in writing to the Omnitrans PM and CSUSB, Design and Construction at least five (5) working days before the start of construction

Contractor shall keep the access open to respective local agency Fire Department and Police Department at all times and coordinate construction efforts with these departments and as directed by each jurisdiction.

**TRAFFIC CONTROL PLANS:** Contractor shall submit a legible, detailed Traffic Control Plan (TCP) on one or more 24" x 36" reproducible plan sheets which shall clearly show and/or describe all proposed lights, warning signs, barricades, delineators, temporary lane markings, temporary traffic signals or signs, and any and all other facilities proposed to be installed. Said TCP shall be prepared and stamped/sealed, signed, and dated by a State of California Registered Civil or Traffic Engineer and shall show all lane closures, restrictions, tapers, and other disruptions of normal traffic flow, including pedestrian and vehicular detours. A schedule and/or sequencing diagram shall be included. Said TCP may be drawn on a sepia or other transparent copy of the project's Plans. It shall be the Contractor's responsibility to immediately revise said Plan at the direction of the Omnitrans PM and CSUSB, and the Contractor hereby agrees that such shall be strictly adhered to, and the Contractor hereby understands and agrees that its failure to provide any facility or device as shown on the TCP, or its deviation from said Plan, shall constitute a breach of contract.

**Measurement and Payment:**

Contract unit price for Traffic Control System shall be on a lump sum (LS) basis and shall include compensation for all traffic control activities including but not limited to labor, materials, tools, equipment as well as the removal for all work involved in Traffic Control as specified. Work includes preparation of Traffic Control Plans, and installing and maintaining project signs, temporary construction signs, delineators, cones, flashing arrow signs, portable changeable message signs, street closures, detours, temporary striping, barricades, steel plates, and other safety devices, as required for public safety and as directed by the Omnitrans PM and CSUSB. No other separate payment will be made for traffic control, and no further compensation will be allowed therefore.

### **BID ITEM 3 – WATER POLLUTION CONTROL**

#### **Method**

Contractor shall be responsible for the implementation of BMPs (Best Management Practices) for the project, per Section 3-12.6, "Water Pollution Control", of the SSPWC, and these Technical Provisions. Contractor shall conform to the requirements of the National Pollutant Discharge Elimination System (NPDES) Permit for Construction Activities, NPDES General Permit No.CAS000002 (Order No. 2012-0006-DWQ), and the Waste Discharge Requirements for the County of San Bernardino and the Regional Water Quality Control Board for the Santa Ana Region. Contactor shall confirm that all the Best Management Practices (BMP's) have been adequately detailed and addresses his or her anticipated construction operations and meets the intent of the NPDES requirements.

Contractor shall utilize Best Management Practices (BMP's) during construction to ensure that airborne materials, dust, debris, trash and sediment from storm runoff and construction activities does not enter storm drains. Some of the primary Water Pollution Control measures anticipated for this project include, but are not limited to, covering all storm drains inlets in the project vicinity with water permeable fabric and gravel bags prior to performing any removals, saw-cutting, asphalt concrete grinding, removal or paving operations; properly fueling and cleaning all equipment/vehicles; maintaining an ample supply of gravel/sand bags on-hand when excavating improvements in the event of rain; properly containing all materials required; properly covering all incoming material trucks and all out going debris hauling vehicles; providing restroom facilities for workers; and regular street sweeping of the work area and haul routes to the satisfaction of each jurisdiction where the work is performed. The requirements of all of the following agencies shall be met and maintained and where there is a conflict between requirements, the most stringent requirement shall govern.

- A. Regional Water Quality Control Board, Region 8, Santa Ana
- B. County of San Bernardino
- C. NPDES General Permit Requirements specific to the California State University, San Bernardino (CSUSB).
- D. NPDES General Permit Requirements (No. CAS000002 and Order No. 2012-0006-DWQ) including BMP's

#### **Best Management Practices**

Contractor shall submit a Best Management Practice (BMP) plan for containing any wastewater or storm water runoff from the project site including, but not limited to the following:

- No placement of construction materials where they could enter storm drain system, which includes gutters that lead to catch basins.

- Checking construction vehicles for leaking fluids.
- Providing a controlled area for cleaning or rinse-down activities.
- Monitoring construction activities.
- Minimizing usage of water when saw-cutting and vacuum the residue.
- Providing measures to capture or vacuum-up water contaminated with construction debris.
- Removing any construction related debris on a daily basis.
- Protecting work areas from erosion.

The BMP plan will be approved by the Omnitrans PM and CSUSB prior to any work. Failure of the Contractor to follow BMP plan will result in immediate cleanup by the Omnitrans PM and CSUSB and back-charging the Contractor for all costs plus 15 percent.

### **Measurement and Payment**

The contract unit price for Water Pollution Control shall be on a lump sum (LS) basis including but not limited to all activities, equipment, supplies, materials, cleanup, and incidentals for doing all the work including the preparation, implementation and maintenance of BMP's on the construction site, and no further compensation will be allowed therefore.

## **BID ITEM 4 – SAWCUT & REMOVE ASPHALT CONCRETE PAVEMENT**

### **Method**

Existing asphalt concrete including the base shall be removed to neatly sawed edges per SSPWC section 300-1.3.2

Existing asphalt concrete pavement shall be cold milled (grind) shown on the plans and per SSPWC section 302-1 Cold Milling of Existing Pavement.

### **Measurement and Payment**

The contract unit price for asphalt concrete pavement removal shall be on a Lump Sum (LS) basis including saw cutting and cold milling but not limited to all activities, equipment, supplies, materials, cleanup, and incidentals for doing all the work including the sawcutting and removal/disposal from site, and no further compensation will be allowed, therefore.

**BID ITEM 5 – CONCRETE PAVEMENT**

**Material and Method**

Materials for concrete pavement shall conform to the requirements of SSPWC Section 201-Concrete, Mortar, and Related Materials.

No.	SSPWC	Standard Plan No.
1	Concrete Bus Pad	131-2

Concrete pavement shall be constructed per SSPWC 302-6 Portland Cement Concrete Pavement. Concrete class shall be 520-A-2500 as specified in SSPWC section 201-1.1.2.

Transverse weakened plane joints shall be constructed at intervals of 10ft.

**Measurement and Payment**

The contract unit price paid in square footage (SF) for installation of concrete pavement shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all work involved in installing and finishing, and including layout work, constructing test panels, complete in place, as shown on the plans, as specified in these Specifications and the provisions, and as directed by the Engineer.

**BID ITEM 6 – CRUSHED MISCELLANEOUS BASE (CMB)**

**Material and Method**

Materials for crushed miscellaneous base shall conform to the requirements of SSPWC Section 200-2.4-Crushed Miscellaneous Base.

CMB (untreated base) shall be constructed per SSPWC 301-2 Untreated Base.

**Measurement and Payment**

The contract unit price paid in Square Footage (SF) for installation of CMB shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all work involved in installing and finishing, and including layout work, spreading and compacting, complete in place, as shown on the plans, as specified in these Specifications and the provisions, and as directed by the Engineer

## **BID ITEM 7 – ASPHALT CONCRETE PAVING**

### **Material and Method**

Materials for asphalt concrete pavement shall conform to the requirements of SSPWC Section 203-6-Asphalt Concrete.

Concrete pavement shall be constructed per SSPWC 302-5 Asphalt Concrete Pavement. Asphalt Concrete shall be B-PG 64-10 (Type B) as specified in SSPWC section 203-6.4.3.

### **Measurement and Payment**

The contract unit price paid in tons (TN) for installation of asphalt concrete pavement shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all work involved in installing and finishing, and including layout work, constructing test panels, complete in place, as shown on the plans, as specified in these Specifications and the provisions, and as directed by the Engineer.

## **BID ITEM 8 – TRAFFIC SIGNS**

### **Material and Method**

Designing, fabricating, furnishing and installing traffic signs. All new signs shall be installed on metal poles unless otherwise indicated on the Contract Drawings.

All Traffic Signage shall conform to Caltrans Standard Plans (2015 Edition) and Caltrans Standard Specifications (2015 Edition) Section 56-2, Signs, and California Manual on Uniform Traffic Control Devices (CAMUTCD).

### **Measurement and Payment**

The contract unit price paid in each (EA) for installation of traffic signs shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all work involved in installing traffic signs, layout work, complete in place, as shown on the plans, or as existing prior to resurfacing, as specified in these Specifications and the provisions, and as directed by the Engineer.

**BID ITEM 9 – THERMOPLASTIC STRIPING AND PAVEMENT MARKINGS**

**Material**

Materials for Thermoplastic Striping and pavement Markings shall conform to the requirements of Section 214-5 of SSPWC, CA MUTCD latest edition, plus any supplements, and these provisions.

All striping shall be thermoplastic. Crosswalk pattern shall be ladder with the exception for work as directed by the Omnitrans PM and CSUSB.

**Method**

Existing traffic striping and markings shall be removed by wet sandblasting as described in SSPWC section 314-2 Removal of Traffic Striping and Curb and Pavement Markings

No.	Caltrans	Standard Plan No.
1	Pavement Markers and Traffic Lines	A20B
2	Pavement Markings Words	A24D
3	Pavement Markings Crosswalks	A24F

Traffic stripes, Crosswalk stripes and “STOP” pavement markings shall be constructed on locations as shown on the plans, per detail on Caltrans Standard Plans A24B, A24D and A24F and shall comply with the construction methods set forth in Section 84-2 Traffic Stripes and Pavement Markings of latest Caltrans Standard Specifications and as directed by the Project Manager.

**Measurement and Payment**

The contract price paid for installation of thermoplastic lane striping, pavement markings and crosswalks shall have the units of lump sum (LS) and shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all work involved in the removal and installation of the thermoplastic materials as specified in these Specifications and as directed by the Project Manager.

\*End of Technical Provisions\*

**DRAWINGS**

1. Title Sheet
2. Site Plan
3. Construction Plan
4. Grading Plan
5. Typical Section & Details

# CALIFORNIA STATE UNIVERSITY SAN BERNARDINO (CSUSB) COUNTY OF SAN BERNARDINO BUS STOP REHABILITATION

## STREET IMPROVEMENT GENERAL NOTES

- ALL IMPROVEMENTS SHALL BE COMPLETED IN ACCORDANCE WITH THIS PLAN AND COMPLY WITH THE LATEST SAN BERNARDINO COUNTY AND DESIGN STANDARDS MANUAL AS WELL AS THE SAN BERNARDINO COUNTY STANDARDS AND SPECIFICATIONS.
- COMPACTION TESTS OF EMBANKMENT CONSTRUCTION, TRENCH BACKFILL, COMPACTING ORIGINAL GROUND, ALL SUBGRADES SHALL BE PERFORMED AT NO COSTS TO SAN BERNARDINO COUNTY. A WRITTEN REPORT WITH THESE COMPACTION TESTS SHALL BE SUBMITTED TO THE SAN BERNARDINO COUNTY DEPARTMENT OF PUBLIC WORKS, PERMITS/OPERATION SUPPORT DIVISION, TRANSPORTATION PERMIT SECTION FOR APPROVAL PRIOR TO PLACEMENT OF BASE MATERIALS AND/OR SURFACING.
- FILL AND GRADE TO DRAIN ALL LOW AREAS ABUTTING TRACT ROADS TO A MINIMUM OF 1% GRADES.
- IMMEDIATELY FOLLOWING REMOVAL OF EXISTING PAVEMENT OR DIKE OR CURB AND/OR GUTTER, THE CONTRACTOR SHALL DILIGENTLY PURSUE THIS PORTION OF WORK UNTIL COMPLETION.
- CURB AND GUTTER, CROSS GUTTER AND SPANDRELS SHALL BE SO CONSTRUCTED THAT A MINIMUM OF PONDING OCCURS; SECTIONS HAVING GRADIENTS OF 0.5% OR FLATTER SHALL BE WATER TESTED IN THE PRESENCE OF THE INSPECTOR IMMEDIATELY PRIOR TO ACCEPTANCE. SECTIONS WHICH HAVE WATER PONDING MORE THAN 6" WIDE OR MORE THAN 4' LONG SHALL BE SAW-CUT AND REMOVED IN LENGTHS NOT LESS THAN 4' AND REPLACED TO REDUCE PONDING TO THE MAXIMUM SPECIFIED.
- IF DURING CONSTRUCTION, GROUND WATER IS ENCOUNTERED, A SYSTEM APPROVED BY THE SAN BERNARDINO COUNTY DEPARTMENT OF PUBLIC WORKS SHALL BE INSTALLED TO DEWATER SAID AREA AT THE DIRECTION OF THE SOILS ENGINEER.
- THE PRIVATE ENGINEER IS RESPONSIBLE FOR ASSURING THE ACCURACY AND ACCEPTABILITY OF WORK HEREON. IN THE EVENT OF DISCREPANCIES ARISING DURING CONSTRUCTION, THE PRIVATE ENGINEER SHALL BE RESPONSIBLE FOR DETERMINING AN ACCEPTABLE SOLUTION AND REVISE THE PLAN FOR APPROVAL BY THE COUNTY OF SAN BERNARDINO.

## TRAFFIC CONTROL GENERAL NOTES

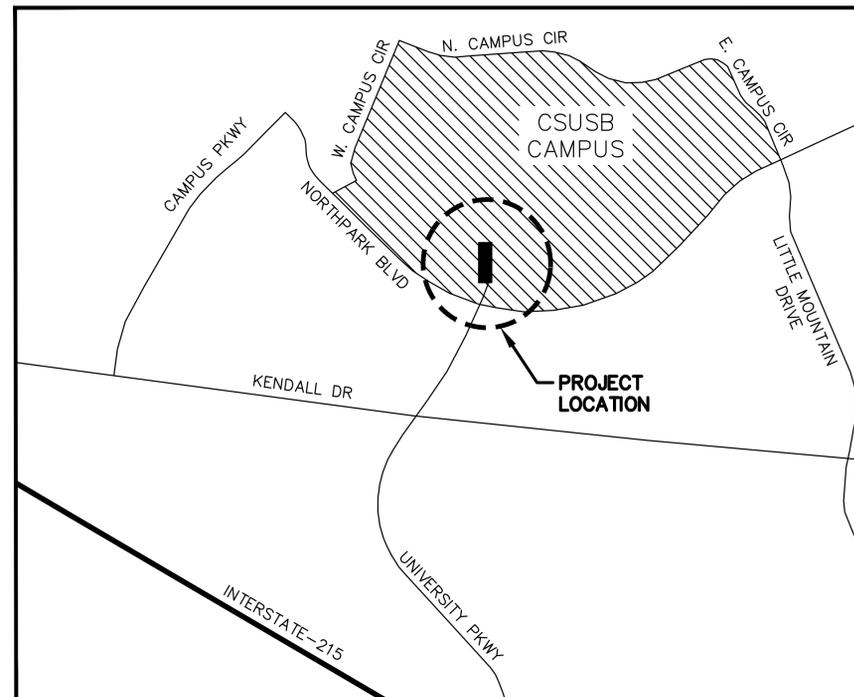
- ALL SIGNING, STRIPING AND PAVEMENT MARKINGS SHALL BE IN CONFORMANCE WITH THE CALIFORNIA MUTCD LATEST EDITION.
- ALL STRIPING AND PAVEMENT MARKINGS SHALL BE PAINTED IN CONFORMANCE WITH THE CALTRANS STANDARD PLANS LATEST EDITION.
- ALL STRIPING (LONG LINE) AND PAVEMENT MARKINGS SHALL BE RETROREFLECTIVE PAINT.
- ALL CONFLICTING SIGNS SHALL BE REMOVED, RELOCATED, OR COVERED BY THE CONTRACTOR. RELOCATABLE SIGNS SHALL BE INSTALLED AS SPECIFIED ON THE PLANS OR AS DIRECTED BY COUNTY REPRESENTATIVE.
- ALL EXISTING SIGNING, STRIPING AND PAVEMENT MARKINGS (I.E. CROSS STREET STOP, STOP LIMIT LINE, AND CROSSWALK PAVEMENT MARKINGS) NOT SHOWN ON PLANS, IF REMOVED/OBLITERATED, SHALL BE REPLACED/RESTORED OF SAME KIND, AND IN CONFORMANCE WITH THE CALIFORNIA MUTCD LATEST EDITION.
- THE CONTRACTOR SHALL NOTIFY COUNTY REPRESENTATIVE TO SCHEDULE A FINAL REVIEW (WALK THROUGH) WITH TRAFFIC DIVISION PERSONNEL FOR APPROVAL OF TRAFFIC CONTROL DEVICES PRIOR TO PROJECT ACCEPTANCE.

## NOTICE TO CONTRACTORS

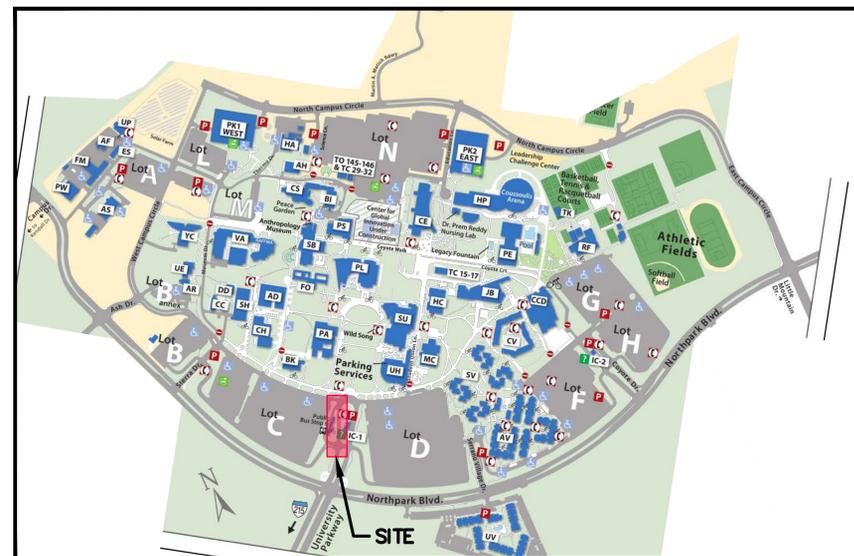
- CALIFORNIA COUNCIL OF CIVIL ENGINEERS AND LAND SURVEYORS
- CONSTRUCTION CONTRACTOR AGREES THAT IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, CONSTRUCTION CONTRACTOR WILL BE REQUIRED TO ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THE PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY; THAT THIS REQUIREMENT SHALL BE MADE TO APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND CONSTRUCTION CONTRACTOR FURTHER AGREES TO DEFEND, INDEMNIFY AND HOLD DESIGN PROFESSIONAL HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPTING LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF DESIGN PROFESSIONAL.
- ALL CONTRACTOR AND SUBCONTRACTORS PERFORMING WORK SHOWN ON OR RELATED TO THESE PLANS SHALL CONDUCT THEIR OPERATIONS SO THAT EMPLOYEES ARE PROVIDED A SAFE PLACE TO WORK AND THE PUBLIC IS PROTECTED. ALL CONTRACTORS AND SUBCONTRACTORS SHALL COMPLY WITH THE "OCCUPATIONAL SAFETY AND HEALTH REGULATIONS" OF THE U.S. DEPARTMENT OF LABOR AND WITH THE STATE OF CALIFORNIA DEPARTMENT OF INDUSTRIAL REGULATIONS "CONSTRUCTION SAFETY ORDERS". THE CIVIL ENGINEER SHALL NOT BE RESPONSIBLE IN ANY WAY FOR THE CONTRACTOR OR SUBCONTRACTORS COMPLIANCE WITH SAID REGULATIONS AND ORDERS.

## PRIVATE ENGINEER'S NOTICE TO CONTRACTOR

- THE EXISTENCE AND LOCATION OF ANY UNDERGROUND UTILITY PIPES, CONDUITS, OR STRUCTURES SHOWN ON THESE PLANS ARE OBTAINED BY A SEARCH OF THE AVAILABLE RECORDS. TO THE BEST OF OUR KNOWLEDGE THERE ARE NO EXISTING UTILITIES OR STRUCTURES EXCEPT AS SHOWN ON THESE PLANS. THE CONTRACTOR IS REQUIRED TO TAKE DUE PRECAUTIONARY MEASURES TO PROTECT THE UTILITIES SHOWN ON THESE DRAWINGS. THE CONTRACTOR FURTHER ASSUMES ALL LIABILITY AND RESPONSIBILITY FOR THE UTILITY PIPES, CONDUITS OR STRUCTURES SHOWN ON THESE DRAWINGS.
- THE ENGINEER ASSUMES NO LIABILITY AS TO THE EXACT LOCATION OF SAID LINES NOR FOR UTILITIES OR IRRIGATION LINES WHOSE LOCATIONS ARE NOT SHOWN. THE CONTRACTOR SHALL BE RESPONSIBLE FOR NOTIFYING ALL UTILITY AND IRRIGATION COMPANIES PRIOR TO WORK ON EXCAVATION TO DETERMINE EXACT LOCATION OF ALL LINES AFFECTING THIS WORK, WHETHER OR NOT SHOWN HEREON, AND FOR ANY DAMAGE OR PROTECTION OF THESE LINES.
- CONTRACTOR AGREES THAT HE/SHE SHALL ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THIS PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY, THAT THIS REQUIREMENT SHALL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND THAT THE CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD THE COUNTY OF SAN BERNARDINO, THE OWNER AND THE ENGINEER HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPTING FOR LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE OWNER OR THE ENGINEER.
- THE CONTRACTOR SHALL CALL IN A LOCATION REQUEST TO UNDERGROUND SERVICE ALERT (U.S.A.) PHONE 1-800-422-4133 TWO (2) WORKING DAYS PRIOR TO DIGGING. NO CONSTRUCTION PERMIT ISSUED BY PUBLIC WORKS DEPARTMENT SHALL BE VALID INVOLVING UNDERGROUND FACILITIES UNLESS THE APPLICANT HAS AN INQUIRY IDENTIFICATION NUMBER ISSUED BY U.S.A.



VICINITY MAP  
NOT TO SCALE



CAMPUS MAP  
NOT TO SCALE



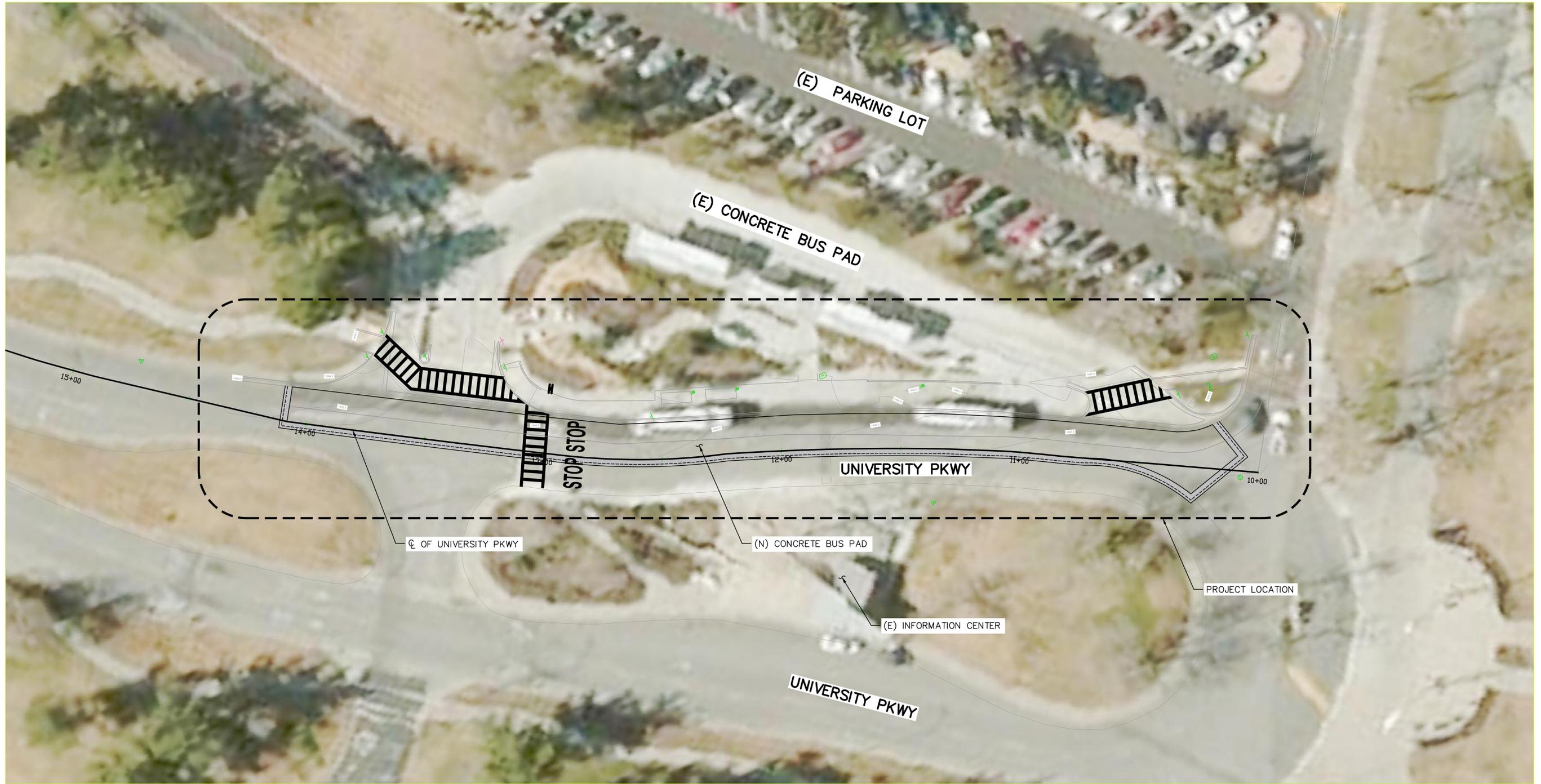
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SHEET	DESCRIPTION
1	TITLE SHEET
2	SITE PLAN
3	CONSTRUCTION PLAN
4	GRADING PLAN
5	TYPICAL SECTION & DETAILS

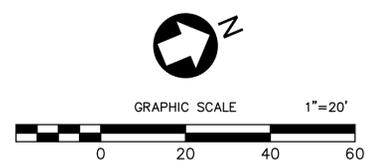
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 Davidson

PRELIMINARY - NOT FOR CONSTRUCTION

<p><b>Underground Service Alert</b></p> <p>Call: TOLL FREE 1-800-227-2600</p> <p>TWO WORKING DAYS BEFORE YOU DIG</p>	<p><b>BENCHMARK</b></p> <p>FOUND NAIL AS CONTROL POINT 100 BY WILSON COMPANY INCOR... BY LONGITUDE W 111° 19' 35.53" LATITUDE N 034° 10' 45.15" COORDINATES: N=1888281.8660 E=6765355.63.90 ELEVATION=1493.391'</p>	<p>PREPARED BY:</p> <p>9130 Anaheim Pl, Suite 210 Rancho Cucamonga, CA 91730-8566 www.stvinc.com</p>	<p>DESIGNED BY R. NAFAR</p> <p>DRAWN BY Z. OHN</p> <p>CHECKED BY J. DAVIDSON</p> <p>IN CHARGE M. SATISH</p> <p>DATE 09/07/2018</p>	<p>MARK</p> <p>REVISIONS</p> <p>APPR DATE</p>	<p>COUNTY OF SAN BERNARDINO DEPARTMENT OF PUBLIC WORKS</p> <p>ENGINEER, TRAFFIC DIVISION</p> <p>DATE</p> <p>TRAFFIC DIVISION CHIEF</p> <p>DATE</p>	<p>RECOMMENDED BY:</p> <p>APPROVED BY:</p> <p>PERMIT ENGINEER</p> <p>DATE</p>	<p>BUS STOP REHABILITATION</p> <p>CSUSB TITLE SHEET</p>	<p>ROAD NO.</p> <p>FILE NO. SP001-SB-COVER.DWG</p> <p>SHEET 1 OF 5</p>
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**SITE PLAN**  
SCALE: 1" = 20'



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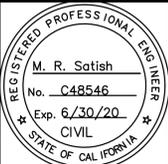
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E=6765355.63.90  
ELEVATION=1493.391'

PREPARED BY:  
**STV** 100 Years  
9130 Anaheim Pl, Suite 210  
Rancho Cucamonga, CA 91730-8566  
www.stvinc.com

DESIGNED BY  
R. NAFAR  
DRAWN BY  
Z. OHN  
CHECKED BY  
J. DAVIDSON  
IN CHARGE  
M. SATISH  
DATE  
09/07/2018



MARK	REVISIONS	APPR	DATE

**COUNTY OF SAN BERNARDINO  
DEPARTMENT OF PUBLIC WORKS**

ENGINEER, TRAFFIC DIVISION	DATE	RECOMMENDED BY:
TRAFFIC DIVISION CHIEF	DATE	APPROVED BY:
		PERMIT ENGINEER
		DATE

**BUS STOP REHABILITATION**

**CSUSB  
SITE PLAN**

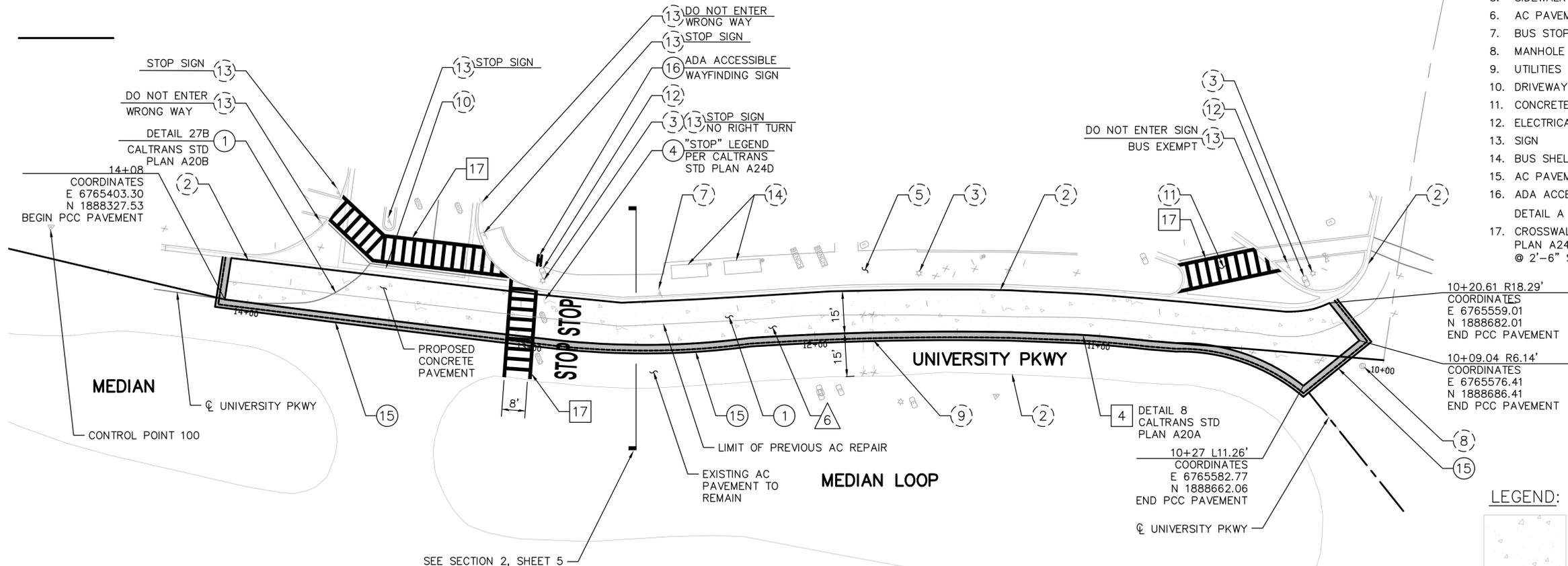
ROAD NO.  
FILE NO.  
SP002-SB-SITE.DWG  
SHEET 2 OF 5

**CONSTRUCTION SYMBOLS:**

- REMOVE
- CONSTRUCT
- RELOCATE EXISTING
- PROTECT IN PLACE
- REMOVE AND CONSTRUCT
- EXISTING TO REMAIN

**CONSTRUCTION NOTES:**

1. 10" CONCRETE BUS PAD PER DETAIL 1, SHEET 5.
2. CURB & GUTTER
3. LIGHT POLE
4. STRIPING
5. SIDEWALK
6. AC PAVEMENT AND BASE
7. BUS STOP SIGN
8. MANHOLE
9. UTILITIES UNDER GROUND
10. DRIVEWAY AND RAMP
11. CONCRETE PAVEMENT
12. ELECTRICAL VAULT & CABINET
13. SIGN
14. BUS SHELTER
15. AC PAVEMENT JOIN PER DETAIL 3, SHEET 5.
16. ADA ACCESSIBLE WAYFINDING SIGNAGE PER DETAIL A (WITH DETAIL B OPPOSITE SIDE).
17. CROSSWALK STRIPING PER CALTRANS STD. PLAN A24F LADDER STYLE, 1'-0" WIDE STRIPES @ 2'-6" SPACING.

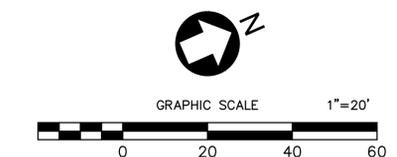


**LEGEND:**

- NEW PCC PAVEMENT
- NEW AC PAVEMENT

**NOTES:**

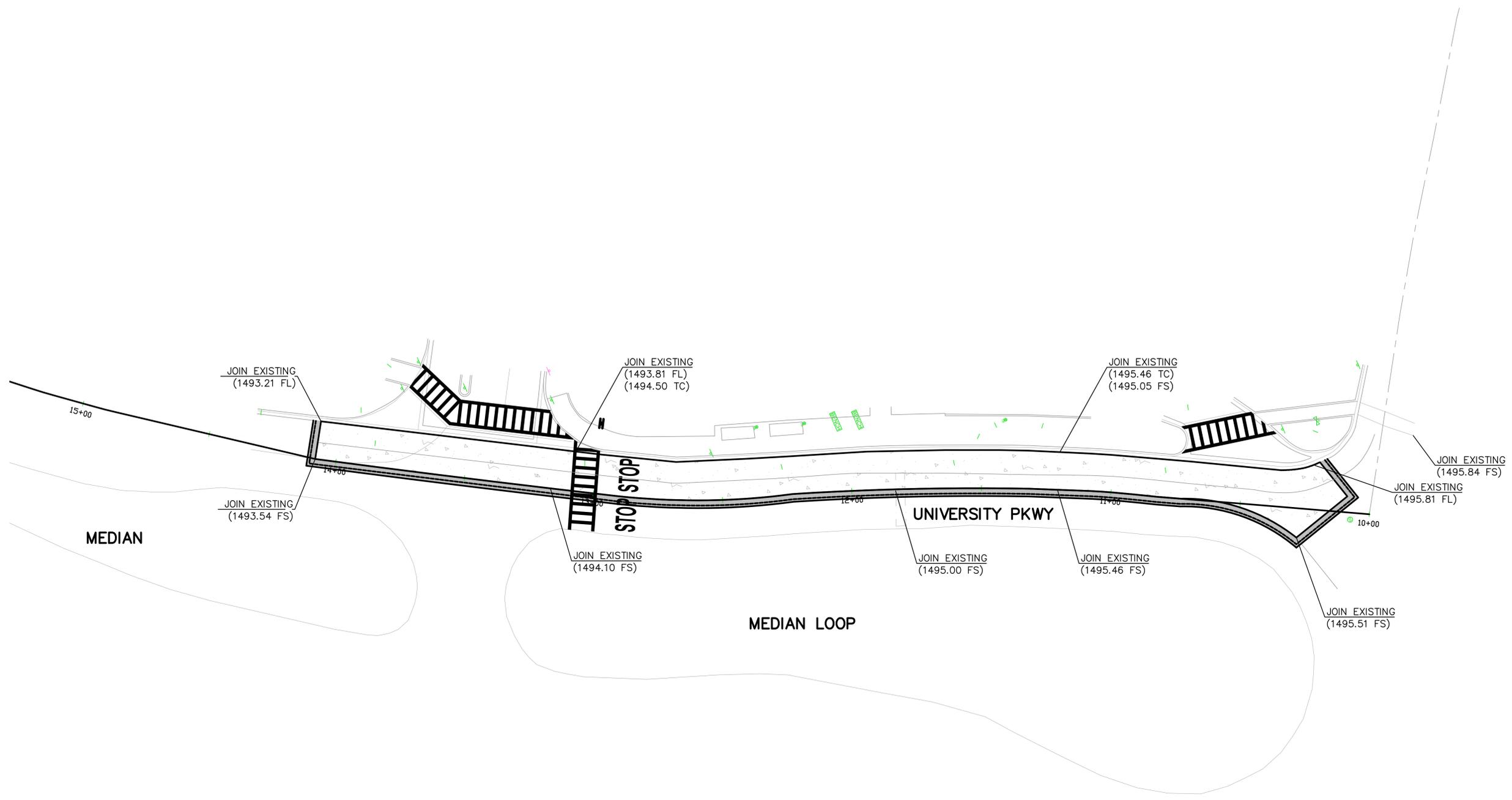
1. TRANSVERSE WEAKENED PLANE JOINTS SHALL BE CONSTRUCTED AT 15' INTERVAL PER SPPWC STD PLAN 134-2



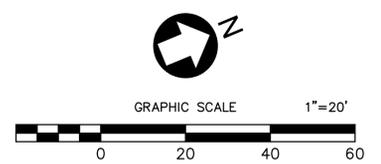
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**GRADING PLAN**  
SCALE: 1" = 20'



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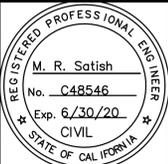
PRELIMINARY - NOT FOR CONSTRUCTION

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**TWO WORKING DAYS BEFORE YOU DIG**

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ELEVATION=1493.391'

**PREPARED BY:**  
  
9130 Anaheim Pl, Suite 210  
Rancho Cucamonga, CA 91730-8566  
www.stvinc.com

DESIGNED BY  
**R. NAFAR**  
DRAWN BY  
**Z. OHN**  
CHECKED BY  
**J. DAVIDSON**  
IN CHARGE  
**M. SATISH**  
DATE  
**09/07/2018**



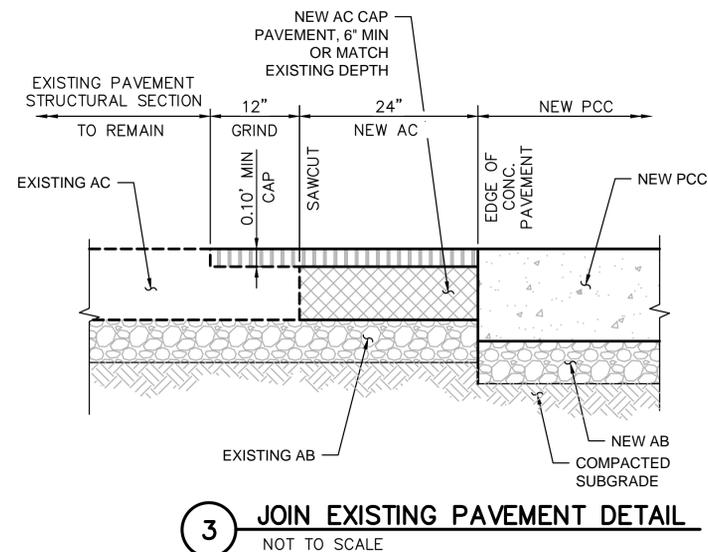
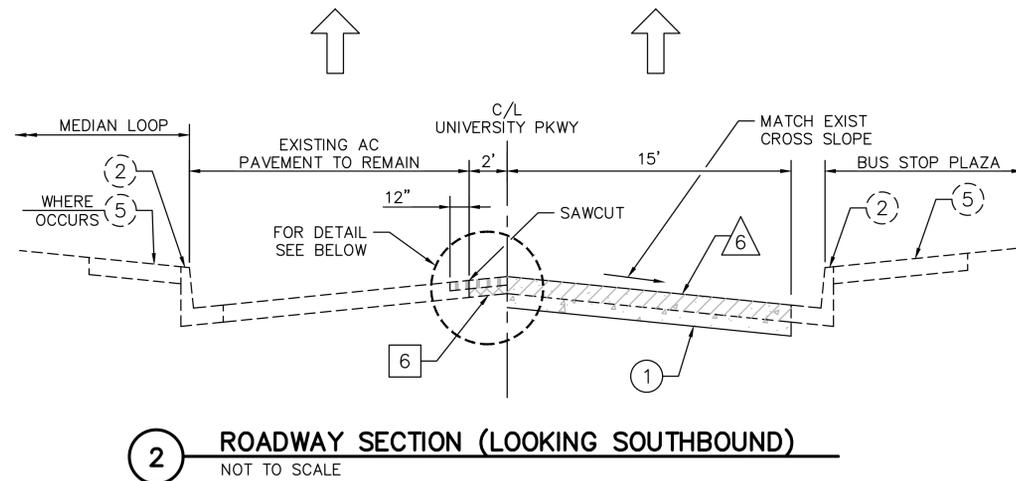
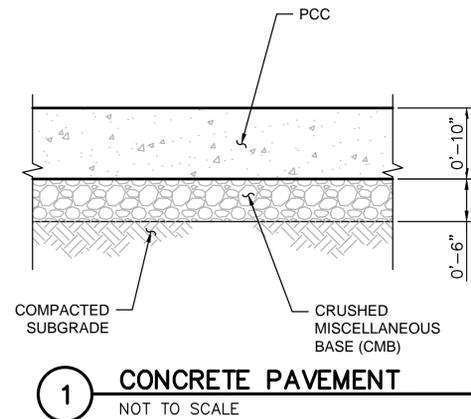
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**BUS STOP REHABILITATION**  
  
**CSUSB  
GRADING PLAN**

ROAD NO.  
FILE NO.  
SP004-SB-GRAD.DWG  
SHEET 4 OF 5



**GENERAL NOTES:**

- REFER TO DRAWINGS SP008-SB AND SP009-SB FOR DETAILS.
- ALL SECTIONS ON THIS DRAWING ARE NOT TO SCALE.

**CONSTRUCTION SYMBOLS:**

- REMOVE
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**LEGEND:**

- REMOVE AC PAVEMENT AND BASE
- NEW CONCRETE PAVEMENT
- REMOVE AND REPLACE AC PAVEMENT
- GRIND AND OVERLAY
- TRAFFIC DIRECTION

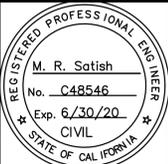
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APPROVED BY: \_\_\_\_\_ DATE \_\_\_\_\_  
PERMIT ENGINEER DATE \_\_\_\_\_

**BUS STOP REHABILITATION**  
  
**CSUSB**  
TYPICAL SECTIONS & DETAILS

ROAD NO. \_\_\_\_\_  
FILE NO. SP005-SB-SECTIONS.DWG  
SHEET 5 OF 5

PRELIMINARY - NOT FOR CONSTRUCTION

**Attachment B**  
**REGULATORY REQUIREMENT**  
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## **REGULATORY REQUIREMENTS**

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

### **Required Clauses for All FTA-Assisted Third-Party Contracts and Subcontracts**

#### **RR-01**

#### **NO FEDERAL OBLIGATION TO THIRD PARTIES \***

In connection with the Project, the Recipient agrees that, absent the Federal Government's express written consent, the Federal Government shall not be subject to any obligations or liabilities to any subrecipient, lessee, third party contractor, or other participant at any tier of the Project, or other person or entity that is not a party to the Grant Agreement or Cooperative Agreement for the Project. Notwithstanding that the Federal Government may have concurred in or approved any solicitation, subagreement, lease, third party contract, or arrangement at any tier, the Federal Government has no obligations or liabilities to any entity other than the Recipient, including any subrecipient, lessee, third party contractor, or other participant at any tier of the Project.

#### **RR-02**

#### **FALSE OR FRAUDULENT STATEMENTS OR CLAIMS – CIVIL AND CRIMINAL FRAUD \***

**A. Civil Fraud.**

The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq., and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to the Recipient's activities in connection with the Project. By executing the Grant Agreement or Cooperative Agreement for the Project, the Recipient certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make in connection with the Project. In addition to other penalties that may apply, the Recipient also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government, the Federal Government reserves the right to impose on the Recipient the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, to the extent the Federal Government deems appropriate.

**B. Criminal Fraud.**

If the Recipient makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government or includes a false, fictitious, or fraudulent statement or representation in any agreement with the Federal Government in connection with a Project authorized under 49 U.S.C. chapter 53 or any other Federal law, the Federal Government reserves the right to impose on the Recipient

the penalties of 49 U.S.C. § 5323(l), 18 U.S.C. § 1001, or other applicable Federal law to the extent the Federal Government deems appropriate.

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

**RR-03**  
**ACCESS TO THIRD PARTY CONTRACT RECORDS \***

- A. Access to Third Party Contract Records.  
The Recipient agrees to require, and assures that its subrecipients require, their third party contractors and third party subcontractors at each tier to provide to the U.S. Secretary of Transportation and the Comptroller General of the United States or their duly authorized representatives, access to all third party contract records as required by 49 U.S.C. § 5325(g). The Recipient further agrees to require, and assures that its subrecipients require, their third party contractors and third party subcontractors, at each tier, to provide sufficient access to third party procurement records as needed for compliance with Federal laws and regulations or to assure proper Project management as determined by FTA.

Contractor agrees to provide Omnitrans, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or the FTA's authorized representatives, including any FTA Project Management Oversight Contractor, access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a) 1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

- B. If this Contract is for a capital project or improvement (defined at 49 U.S.C. 5302(a) 1) and was entered in to through other than competitive bidding, the Contractor shall make records related to this Contract available to Omnitrans, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
- C. Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case Contractor agrees to maintain same until Omnitrans, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

**RR-04  
FEDERAL FUNDING, INCORPORATION OF FEDERAL TRANSIT  
ADMINISTRATION (FTA) TERMS, AND FEDERAL CHANGES**

- A. This Contract includes, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the Contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008 and revised March 18, 2013 (including any changes), and are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Omnitrans requests which would cause Omnitrans to be in violation of the FTA terms and conditions.
- B. Federal Transit Administration of the US Department of Transportation and all laws, regulations, guidelines, and provisions of the financial assistance agreement apply to this Contract and are incorporated by reference as if fully set forth herein.
- C. Contractor shall at all times comply with all applicable federal laws and regulations, including without limitation FTA regulations, policies, procedures and directives, including those listed directly or by reference in Applicable Grant Agreements between Omnitrans and FTA, as they may be amended or promulgated from time to time during the term of this Contract collectively "Federal Requirements". These Federal Requirements may change and the changed Federal Requirements will apply to this Contract as required unless the Federal Government determines otherwise. Contractor's failure to so comply with the Federal Requirements shall constitute a material breach of this Contract.

**RR-05  
CIVIL RIGHTS REQUIREMENTS (TITLE VI, ADA, EEO (EXCEPT SPECIAL DOL  
CONSTRUCTION CLAUSE \***

- A. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, Contractor shall comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- B. Equal Employment Opportunity
  - (a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, Contractor shall comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of

Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq. , (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect activities undertaken in the course of the Contract. Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, Contractor shall comply with any implementing requirements FTA may issue.

- (b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, Contractor shall refrain from discrimination against present and prospective employees for reason of age. In addition, Contractor shall comply with any implementing requirements FTA may issue.
- (c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, Contractor shall comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, Contractor shall comply with any implementing requirements FTA may issue.
- (d) Contractor shall include these requirements in each subcontract, modified only if necessary to identify parties, as required by Federal regulations.

**RR-06**  
**DISADVANTAGED BUSINESS ENTERPRISE (DBE) 49 CFR Part 26**

**Disadvantaged Business Enterprises**

- A. This Contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The agency's overall goal for DBE participation is 1%.
- B. Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted Contract. Failure by Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as Omnitrans deems

appropriate. Each subcontract Contractor signs with a subcontractor must include the assurance in this paragraph (*see* 49 CFR 26.13(b)).

- C. Bidders are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. Award of this contract is conditioned on submission of the following concurrent with and accompanying sealed bid concurrent with and accompanying an initial proposal prior to award:
1. The names and addresses of DBE firms that will participate in this contract;
  2. A description of the work each DBE will perform;
  3. The dollar amount of the participation of each DBE firm participating;
  4. Written documentation of the bidder's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;
  5. Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
  6. If the contract goal is not met, evidence of good faith efforts to do so.

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

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

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

# **Required Clauses for Awards Exceeding \$2,000**

RR-07

## **DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS**

### **Background and Application**

The Davis-Bacon and Copeland Acts are codified at 40 USC 3141, *et seq.* and 18 USC 874. The Acts apply to grantee construction contracts and subcontracts that “at least partly are financed by a loan or grant from the Federal Government.” 40 USC 3145(a), 29 CFR 5.2(h), 49 CFR 18.36(i) (5). The Acts apply to any construction contract over \$2,000. 40 USC 3142(a), 29 CFR 5.5(a). ‘Construction,’ for purposes of the Acts, includes “actual construction, alteration and/or repair, including painting and decorating.” 29 CFR 5.5(a). The requirements of both Acts are incorporated into a single clause (*see* 29 CFR 3.11) enumerated at 29 CFR 5.5(a) and reproduced below.

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

### **Clause Language**

#### **Davis-Bacon and Copeland Anti-Kickback Acts**

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

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

classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) **Withholding** - Omnitrans shall upon its own action or upon written request of an authorized

representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, Omnitrans may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

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

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

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

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

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

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

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

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

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

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

of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractors registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

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

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

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

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

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

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

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

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

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

**RR-08**  
**SEISMIC SAFETY REQUIREMENTS 42 U.S.C. 7701 et seq. 49 CFR Part 41**

**Applicability to Contracts**

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

**Flow Down**

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

**Model Clauses/Language**

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

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

**Required Clauses for Awards Exceeding \$10,000**

**RR-09**  
**TERMINATION 49 U.S.C. Part 18 FTA Circular 4220.1F**

**Applicability to Contracts**

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

**Flow Down**

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

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

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

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

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

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

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

## **Required Clauses for Awards Exceeding \$25,000**

### **RR-010**

#### **SUSPENSION AND DEBARMENT\***

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

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

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

## **Awards Exceeding \$100,000 by Statute**

### **RR-011**

#### **COMPLIANCE WITH FEDERAL LOBBYING POLICY \***

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

### **RR-012**

#### **CLEAN WATER AND CLEAN AIR REQUIREMENTS\***

##### **A. CLEAN WATER REQUIREMENTS**

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

##### **B. CLEAN AIR**

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

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

**RR-013**  
**NON-CONSTRUCTION ACTIVITIES**

Activities Not Involving Construction. The Recipient agrees to comply, and assures the compliance of each subrecipient, lessee, third party contractor, and other participant at any tier of the Project, with the employee protection requirements for nonconstruction employees of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 3701 *et seq.*, in particular with the wage and hour requirements of section 102 of that Act at 40 U.S.C. § 3702, and with implementing U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 C.F.R. Part 5.

**Required Clauses for Awards Exceeding the Simplified Acquisition Threshold (\$150,000)**

**RR-014**  
**BUY AMERICA \***

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

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

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

**RR-015**  
**BREACHES AND DISPUTE RESOLUTION 49 CFR Part 18 FTA Circular 4220.1F**

**Applicability to Contracts**

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

**Flow Down**

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

**Disputes** - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the Omnitrans. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to Omnitrans Construction Manager. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of Omnitrans Project Manager shall be binding upon the Contractor and the Contractor shall abide by the decision.

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

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

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

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

## **Transport of Property or Persons**

### **RR-016 CARGO PREFERENCE\***

#### **A. Applicability**

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

#### **B. USE OF UNITED STATES FLAG VESSELS**

Contractor shall use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this Contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels.

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

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

### **RR-017 FLY AMERICA**

#### **A. Applicability**

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

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

available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

## **CONSTRUCTION ACTIVITIES**

### **RR-018 DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS**

#### **Background and Application**

The Davis-Bacon and Copeland Acts are codified at 40 USC 3141, *et seq.* and 18 USC 874. The Acts apply to grantee construction contracts and subcontracts that “at least partly are financed by a loan or grant from the Federal Government.” 40 USC 3145(a), 29 CFR 5.2(h), 49 CFR 18.36(i) (5). The Acts apply to any construction contract over \$2,000. 40 USC 3142(a), 29 CFR 5.5(a). ‘Construction,’ for purposes of the Acts, includes “actual construction, alteration and/or repair, including painting and decorating.” 29 CFR 5.5(a). The requirements of both Acts are incorporated into a single clause (*see* 29 CFR 3.11) enumerated at 29 CFR 5.5(a) and reproduced below.

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

#### **Clause Language**

##### **Davis-Bacon and Copeland Anti-Kickback Acts**

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics

shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

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

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

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

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

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

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification

under this contract from the first day on which work is performed in the classification.

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

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

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

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

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

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

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

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

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

(2) **Withholding** - Omnitrans shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, Omnitrans may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

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

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

Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

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

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

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

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

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

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

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

(4) **Apprentices and trainees** - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the

Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractors registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

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

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

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

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

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

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

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

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

**RR-019**  
**CONTRACT WORK HOURS AND SAFETY STANDARDS ACT \***

**A. Applicability**

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

**B. Pursuant to the Labor Standards Provisions Applicable to Non-construction Contracts subject to the Federal Contract Work Hours and Safety Standards Act, 40 U.S.C.A. § 327 through 332 as implemented by U.S. Department of Labor regulations, 29 CFR 5.5 (b) and (c) Contractor and Subcontractor's contracting for any part of the Contract work shall comply with the following:**

1. **Overtime requirements** – Neither Contractor nor any Subcontractor contracting for any part of the Contract work that requires or involves the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
2. **Violation; liability for unpaid wages; liquidated damages** – In the event of any violation of the Article set forth in paragraph (1) of this Article Contractor and any Subcontractor responsible therefore shall be liable for the unpaid wages. In addition, Contractor and Subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this Article, in the sum of ten dollars (\$10) for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this Article.
3. **Withholding for unpaid wages and liquidated damages** – Omnitrans shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by Contractor or Subcontractor under the Contract or any other Federal contract with Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by Contractor, such sums as may be determined to be necessary to satisfy any liabilities of Contractor or Subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this Article.

4. **Subcontracts** – Contractor or Subcontractor shall insert this Article in any Subcontracts and also an Article requiring the Subcontractors to include this Article in any lower tier Subcontracts. Contractor shall be responsible for compliance by any Subcontractor or lower tier Subcontractor with this Article.
  
5. **Payrolls and basic records** – The records to be maintained hereinabove shall be made available by Contractor or Subcontractor for inspection, copying, or transcription by Omnitrans and U.S. Dept. of Labor. Contractor and Subcontractor shall maintain payrolls and basic records during the course of the work and shall preserve them for a period of three (3) years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made and actual wages paid.

## **RR-020 BONDING REQUIREMENTS**

### Applicability to Contracts

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

- A. A bid guarantee from each bidder equivalent to five (5) percent of the bid price. The "bid guarantees" shall consist of a firm commitment and may be in any of the following forms: (a) cash; (b) cashier's check payment to Omnitrans; (c) a certified check payable to the city; or (d) a bidder's bond executed by an admitted surety insurer. Such as a bid bond, certifies check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
  
- B. A performance bond on the part of the Contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
  
- C. A payment bond on the part of the Contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work provided for in the contract.

**RR-021**  
**SEISMIC SAFETY REQUIREMENTS 42 U.S.C. 7701 et seq. 49 CFR Part 41**

**Applicability to Contracts**

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

**Flow Down**

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

**Model Clauses/Language**

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

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

**NON-CONSTRUCTION ACTIVITIES**

Activities Not Involving Construction. The Recipient agrees to comply, and assures the compliance of each subrecipient, lessee, third party contractor, and other participant at any tier of the Project, with the employee protection requirements for nonconstruction employees of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 3701 *et seq.*, in particular with the wage and hour requirements of section 102 of that Act at 40 U.S.C. § 3702, and with implementing U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 C.F.R. Part 5.

# **TRANSIT OPERATIONS**

## **RR-022 TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS \***

### **A. Applicability**

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

### **B. General Transit Employee Protective Requirements**

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

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

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

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

If FTA has determined that this Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, Contractor shall comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

**E. Indemnity**

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

**CHARTER BUS OPERATION**

**Charter Service Operations.**

The Recipient agrees that neither it nor any public transportation operator performing work in connection with a Project financed under 49 U.S.C. chapter 53 or under 23 U.S.C. §§ 133 or 142, will engage in charter service operations, except as authorized by 49 U.S.C. § 5323(d) and FTA regulations, "Charter Service," 49 C.F.R. Part 604, and any Charter Service regulations or FTA directives that may be issued, except to the extent that FTA determines otherwise in writing. The Charter Service Agreement the Recipient has selected in its latest annual Certifications and Assurances is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. If the Recipient has failed to select the Charter Service Agreement in its latest annual Certifications and Assurances to FTA and does conduct charter service operations prohibited by FTA's Charter Service regulations, the Recipient understands and agrees that: (1) the requirements of FTA's Charter Service regulations and any amendments thereto will apply to any charter service it or its subrecipients, lessees, third party contractors, or other participants in the Project provide; (2) the definitions of FTA's Charter Service regulations will apply to the Recipient's charter operations, and (3) a pattern of violations of FTA's Charter Service regulations may require corrective measures and imposition of remedies, including barring the Recipient, subrecipient, lessee, third party contractor, or other participant in the Project operating public transportation under the Project from receiving Federal financial assistance from FTA, or withholding an amount of Federal assistance as set forth in Appendix D to FTA's Charter Service regulations.

## **SCHOOL BUS OPERATIONS**

The Recipient agrees that neither it nor any public transportation operator performing work in connection with a Project financed under 49 U.S.C. chapter 53 or under 23 U.S.C. §§ 133 or 142, will engage in school transportation operations for the transportation of students or school personnel exclusively in competition with private school transportation operators, except as authorized by 49 U.S.C. §§ 5323(f) or (g), as applicable, and FTA regulations, “School Bus Operations,” 49 C.F.R. Part 605 to the extent consistent with 49 U.S.C. §§ 5323(f) or (g), in accordance with any School Transportation Operations regulations or FTA directives that may be issued at a later date, except to the extent that FTA determines otherwise in writing. The School Transportation Operations Agreement the Recipient has selected in its latest annual Certifications and Assurances is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. If the Recipient has failed to select the School Transportation Operations Agreement in its latest annual Certifications and Assurances to FTA and does conduct school transportation operations prohibited by FTA’s School Bus Operations regulations, 49 C.F.R. Part 605, to the extent those regulations are consistent with 49 U.S.C. §§ 5323(f) or (g), the Recipient understands and agrees that: (1) the requirements of FTA’s School Bus Operations regulations, 49 C.F.R. Part 605, to the extent consistent with 49 U.S.C. §§ 5323(f) or (g), will apply to any school transportation service it or its subrecipients, lessees, third party contractor, or other participants in the project provide, (2) the definitions of FTA’s School Bus Operations regulations will apply to the Recipient’s school transportation operations, and (3) if there is a violation of FTA’s School Bus Operations regulations, to the extent consistent with 49 U.S.C. §§ 5323(f) or (g), FTA will bar the Recipient, subrecipient, lessee, third party contractor, or other Project participant operating public transportation that has violated FTA’s School Bus Operations regulations, 49 C.F.R. Part 605, to the extent consistent with 49 U.S.C. §§ 5323(f) or (g), from receiving Federal transit assistance in an amount FTA considers appropriate.

### **RR-023 ALCOHOL AND DRUG-FREE WORKPLACE PROGRAM \***

#### **A. Applicability**

This Article applies to federally funded contracts for transit operations.

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

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

C. **Certificate of Compliance**

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

D. **Drug and Alcohol Testing Program**

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

E. **Alcohol and Drug Free Workplace Program**

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

## **PLANNING, RESEARCH, DEVELOPMENT AND DEMONSTRATION PROJECTS**

### **PATENT RIGHTS**

a. General. If any invention, improvement, or discovery of the Recipient or of any subrecipient, lessee, third party contractor, or other participant at any tier of the Project is conceived or first actually reduced to practice in the course of or under the Project, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Recipient agrees to notify FTA immediately and provide a detailed report in a format satisfactory to FTA.

b. Federal Rights. The Recipient agrees that its rights and responsibilities, and those of each

subrecipient, lessee, third party contractor, or other participant at any tier of the Project, pertaining to that invention, improvement, or discovery will be determined in accordance with applicable Federal laws and regulations, including any waiver thereof. Absent a determination in writing to the contrary by the Federal Government, the Recipient agrees to transmit to FTA those rights due the Federal Government in any invention, improvement, or discovery resulting from that subagreement, third party contract, third party subcontract, or arrangement, as specified in 35 U.S.C. §§ 200 *et seq.*, and U.S. Department of Commerce regulations, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” 37 C.F.R. Part 401, irrespective of the status of the Recipient, subrecipient, lessee, third party contractor or other participant in the Project (*i.e.*, a large business, small business, State government, State instrumentality, local government, Indian tribe, nonprofit organization, institution of higher education, or individual).

c. License Fees and Royalties. FTA considers income earned from license fees and royalties for patents, patent applications, and inventions produced under the Project to be program income. Except to the extent FTA determines otherwise in writing, as provided in 49 C.F.R. Parts 18 and 19, the Recipient has no obligation to the Federal Government with respect to that program income, apart from compliance with 35 U.S.C. §§ 200 *et seq.*, which applies to patent rights developed under a research project.

## **RIGHTS IN DATA AND COPYRIGHTS**

a. Definition. The term “subject data,” as used in this Section 18 of this Master Agreement means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the Grant Agreement or Cooperative Agreement for the Project. Examples include, but are not limited to: computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information. “Subject data” do not include financial reports, cost analyses, or other similar information used for Project administration.

b. General. The following restrictions apply to all subject data first produced in the performance of the Grant Agreement or Cooperative Agreement for the Project:

(1) Except for its own internal use, the Recipient may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Recipient authorize others to do so, without the prior written consent of the Federal Government, unless the Federal Government has previously released or approved the release of such data to the public.

(2) The restrictions on publication of Paragraph 18.b(1) of this Master Agreement, however, do not apply to a Grant Agreement or Cooperative Agreement with an institution of higher learning.

c. Federal Rights in Data and Copyrights. The Recipient agrees to provide to the Federal Government a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for Federal Government purposes the subject data described in this Subsection 18.c of this Master Agreement. As used herein, “for Federal Government purposes,” means use only for the direct purposes of the Federal Government. Without the copyright owner’s

consent, the Federal Government may not provide or otherwise extend to other parties the Federal Government's license to:

- (1) Any subject data developed under the Grant Agreement or Cooperative Agreement for the Project, or under a subagreement, lease, third party contract or other arrangement at any tier of the Project, supported with Federal assistance derived from the Grant Agreement or Cooperative Agreement for the Project, whether or not a copyright has been obtained; and
- (2) Any rights of copyright to which a Recipient, subrecipient, lessee, third party contractor, or other participant at any tier of the Project purchases ownership using Federal assistance.

d. Special Federal Rights in Data for Research, Development, Demonstration, and Special Studies Projects. In general, FTA's purpose in providing Federal assistance for a research, development, demonstration, or special studies Project is to increase transportation knowledge, rather than limit the benefits of the Project to Project participants. Therefore, when the Project is completed, the Recipient agrees to provide a Project report that FTA may publish or make available for publication on the Internet. In addition, the Recipient agrees to provide other reports pertaining to the Project that FTA may request. The Recipient agrees to identify clearly any specific confidential, privileged, or proprietary information it submits to FTA. In addition, except to the extent that FTA determines otherwise in writing, the Recipient of Federal assistance to support a research, development, demonstration, or a special studies Project agrees that, in addition to the rights in data and copyrights that it must provide to the Federal Government as set forth in Subsection 18.c of this Master Agreement, FTA may make available to any FTA recipient, subrecipient, third party contractor, third party subcontractor or other participant at any tier of the Project, either FTA's license in the copyright to the subject data or a copy of the subject data. If the Project is not completed for any reason whatsoever, all data developed under the Project shall become subject data as defined in Subsection 18.a of this Master Agreement and shall be delivered as the Federal Government may direct. This Subsection 18.d, however, does not apply to adaptations of automatic data processing equipment or programs for the Recipient's use when the costs thereof are financed with Federal assistance through an FTA capital program.

e. License Fees and Royalties. FTA considers income earned from license fees and royalties for copyrighted material, or trademarks produced under the Project to be program income. Except to the extent FTA determines otherwise in writing, as provided in 49 C.F.R. Parts 18 and 19, the Recipient has no obligation to the Federal Government with respect to that program income, apart from compliance with 35 U.S.C. §§ 200 *et seq.*, which applies to patent rights developed under a research project.

f. Hold Harmless. Except as prohibited or otherwise limited by State law or except to the extent that FTA determines otherwise in writing, upon request by the Federal Government, the Recipient agrees to indemnify, save, and hold harmless the Federal Government and 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 right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under the Project. The Recipient shall not be required to indemnify the Federal Government for any such liability caused by the wrongful acts of Federal employees or agents.

g. Restrictions on Access to Patent Rights. Nothing in Section 18 of this Master Agreement pertaining to rights in data shall either imply a license to the Federal Government under any patent or be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent.

h. Data Developed Without Federal Funding or Support. In connection with the Project, the Recipient may find it necessary to provide data to FTA developed without any Federal funding or support by the Federal Government. The requirements of Subsections 18.b, 18.c, and 18.d of this Master Agreement do not apply to data developed without Federal funding or support by the Federal Government, even though that data may have been used in connection with the Project. Nevertheless, the Recipient understands and agrees that the Federal Government will not be able to protect data from unauthorized disclosure unless that data is clearly marked “Proprietary” or “Confidential.”

i. Requirements to Release Data. To the extent required by U.S. DOT regulations, “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,” at 49 C.F.R. § 19.36(d), or other applicable Federal laws or Federal regulations, the Recipient understands and agrees that the data and information it submits to the Federal Government may be required to be released in accordance with the Freedom of Information Act (or another Federal law or Federal regulation providing access to such records).

## **SPECIAL NOTIFICATION REQUIREMENTS FOR STATES**

### **SPECIAL NOTIFICATION REQUIREMENTS FOR STATES**

To the extent required by Federal law, the State agrees that, in administering any Federal assistance Program or Project supported by the Grant Agreement or Cooperative Agreement, any request for proposals, solicitation, grant application, form, notification, press release, or other publication involving the distribution of FTA assistance for the Program or the Project shall indicate that FTA is the Federal agency that is providing the Federal assistance, the Catalog of Federal Domestic Assistance Number of the program from which the Federal assistance is authorized, as may be applicable, and the amount of Federal assistance FTA provided.

## **MISCELLANEOUS SPECIAL REQUIREMENTS**

### **RR-024 ENERGY CONSERVATION REQUIREMENTS**

#### **A. Applicability**

This Article applies to all federally funded contracts.

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

### **RR-025 RECYCLED PRODUCTS**

#### **A. Applicability**

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

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

### **NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS ARCHITECTURE AND STANDARDS**

To the extent applicable, the Recipient agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by SAFETEA-LU § 5307(c), 23 U.S.C. § 512 note, and follow the provisions of FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 Fed. Reg. 1455 et seq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

**RR-026**  
**ADA ACCESS**

**A. Applicability**

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

**B. Access Requirements for Persons with Disabilities**

Contractor shall comply with:

1. The requirements of 49 U.S.C. § 5301(d), which states the Federal policy that elderly persons and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy;
2. All applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps;
3. The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act;
4. The Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act; and
5. All applicable requirements of the following regulations and any subsequent amendments thereto:
  - (1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;
  - (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
  - (3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;

- (4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
- (5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
- (6) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
- (7) U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
- (8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and
- (9) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194; and
- (10) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609;
- (11) Any implementing requirements FTA may issue.

## **NOT INCLUDED IN UPDATED POLICY**

### **RR-01 ADMINISTRATIVE CODE \***

#### **A. Applicability**

This Article applies to all contracts.

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

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

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

**C. Campaign Contributions**

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

**RR-02  
DISCRIMINATION \***

**A. Applicability**

This Article applies to all contracts.

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

**RR-03  
WHISTLEBLOWER REQUIREMENTS \***

**A. Applicability**

This Article applies to all contracts.

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

**RR-04  
PUBLIC RECORDS ACT \***

**A. Applicability**

This Article applies to all contracts.

- B. Except as otherwise provided herein, all records, documents, drawings, plans, specifications, and all other information relating to the conduct of Omnitrans business, including all information and documents submitted by Contractor (“Records”), shall become the exclusive property of Omnitrans and shall be deemed public records. Said Records are subject to the provisions of the California Public Records Act (Government Code §6250 et. seq.). Omnitrans use and disclosure of its records are governed by this Act. Omnitrans will use its best efforts to inform the Contractor of any request for any financial records or documents marked “Trade Secret”, “Confidential” or “Proprietary” provided by Contractor to Omnitrans. Omnitrans will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act.
- C. In the event of litigation concerning the disclosure of any Records, Omnitrans sole involvement will be as a stakeholder, retaining the Records until otherwise ordered by a court. The submitting party, at its sole expense and risk, shall be fully responsible for any and all fees for prosecuting or defending any action concerning the Records and shall indemnify and hold Omnitrans harmless from all costs and expenses including attorney’s fees in connection with any such action.

**RR-05  
PRIVACY ACT - 5 U.S.C. 552**

**Applicability to Contracts**

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

**Flow Down**

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

**Model Clause/Language**

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

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

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

**RR-06**  
**VETERANS PREFERENCE**

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

**END OF REGULATORY REQUIREMENTS**

**ATTACHMENT C – BID SCHEDULE  
MNT19-17  
CONCRETE BUS PAD CSUSB**

<b>No.</b>	<b>Description</b>	<b>Unit</b>	<b>Quantity</b>	<b>Unit Price</b>	<b>Total Amount</b>
1	Contractor's Mobilization (including permits and temporary services)	LS	1	\$11,360.00	\$11,360.00
2	Traffic Control System	LS	1	\$7,100.00	\$7,100.00
3	Water Pollution Control	LS	1	\$3,550.00	\$3,550.00
4	Sawcut & Remove AC Pavement	LS	1	\$27,126.97	\$27,126.97
5	Concrete Pavement	SF	6,050	\$8.16	\$49,368.00
6	Crushed Misc. Base (CMB)	SF	6,950	\$0.95	\$6,602.50
7	Asphalt Concrete Pavement	TN	35	\$312.40	\$10,934.00
8	Traffic Signs	EA	2	\$250.00	\$500.00
9	Thermoplastic Striping & Pavement Markings	LS	1	\$7,356.25	\$7,356.25
	Permits	LS	1	\$2,840.00	\$2,840.00
	Overhead ( 5 %)	LS	1	\$6,336.89	\$6,336.89
	Profit ( 5 %)	LS	1	\$6,336.89	\$6,336.89
<b>Total Lump Sum Bid Amount</b>			<b>\$ 139,411.50</b>		

**ATTACHMENT D – GENERAL PROVISIONS  
MNT19-17  
CONCRETE BUS PAD CSUSB**

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**A. SCHEDULE OF VALUES**

Within 15 calendar days after "Notice to Proceed," the Contractor shall, upon request by Omnitrans, submit a Schedule of Values of the lump sum Bid entered on the Bid Form for all construction work. This Schedule of Values will form the basis for progress payments in accordance with these Specifications and shall show all of the major categories and subcategories of work and equipment requested by Omnitrans. Bonds and insurance costs will be identified as a separate line item. Such Schedule of Values shall not be required if Omnitrans, at its sole discretion, elects to pay the Contractor in lump sum within thirty (30) calendar days of receipt of proper invoice following the Contractor's satisfactory completion and Omnitrans' acceptance of all work.

**B. PROGRESS PAYMENTS**

1. Invoicing Instructions and Requirements:
  - a) Contractor shall invoice Omnitrans monthly based upon the Schedule of Values.
  - b) Invoices shall be separately numbered and sent to Omnitrans at the address listed below:

Omnitrans  
1700 West Fifth Street  
San Bernardino, California 92411  
Attn: Accounts Payables
  - c) The Contractor is required to submit a Conditional Waiver and Release Upon Partial Payment with each invoice. The Contractor must submit the Contractor Final Release with the final invoice.
2. For capital projects, Omnitrans pays invoices on the first Thursday of each month.
  - a) 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.
  - b) If received within the 10 days prior to the first Thursday of the month, payment may be delayed to the following month.
3. In no event shall Omnitrans be obligated to make any payment on account of the Services which would cause the total amount paid to Contractor to exceed that not-to-exceed amount set forth above unless the Contract is amended through a Change Order.
4. For purposes of calculating the progress payments, Omnitrans will use the Schedule of Values submitted by the Contractor at the start of this Agreement. In no event will Omnitrans make a progress payment that, when added to the prior progress payments, amounts to a sum more than the Contractor's actual aggregate incurred expenses, adjusted to include Contractor's overhead and profit as allocated to such incurred expenses.
5. Omnitrans will pay only 95% of each progress payment amount as determined above, retaining 5% as part security for the fulfillment of this Agreement by the Contractor. Unless otherwise required by law, the final payment of five percent (5%) of the value of

the total price of this Agreement, if unencumbered, shall be paid no later than sixty (60) days after the date of recordation of the Notice of Completion.

6. No progress payments will be made for materials not installed.
7. Progress payments made by Omnitrans in no way shall be deemed or construed as acceptance by Omnitrans of work or waiver by Omnitrans of any rights hereunder.
8. Acceptance by Contractor of the final payment shall constitute a waiver of all claims against Omnitrans arising from this Agreement.
9. The Contractor shall pay subcontractors, promptly upon receipt of each Omnitrans progress payment, the respective amounts allowed the Contractor on account of the work performed by subcontractors, to the extent of each such subcontractor's interest therein. Such payments to subcontractors shall be based on estimates made pursuant to this Agreement. Any diversion by the Contractor of payments received for prosecution of a contract, or failure to reasonably account for the application or use of such payments, constitutes ground for termination of the Contractor's control over the work and for taking over the work, in addition to disciplinary action by the Contractor's State License Board. The subcontractor shall notify, in writing, the Contractor's State License Board and Omnitrans of any payment less than the amount or percentage approved for the class or item of work as set forth in this Agreement.
10. In addition to other amounts properly withheld under this Agreement, Omnitrans shall withhold all legally required sums for, but not necessarily limited to, stop payment notices, labor and tax liens, etc.

### **C. FINAL INSPECTION AND ACCEPTANCE**

Promptly after Substantial Completion has occurred, Contractor shall perform all Punch List Work, if any, which was deferred for purposes of Project Completion, and shall satisfy all of its other contractual obligations under the contract documents.

When the Contractor determines that the work is fully completed, including satisfactory completion of all inspections, tests, and required documentation, Punch List and clean-up items, Contractor shall give Omnitrans a written request for Final Acceptance within ten (10) days thereafter, specifying that the work is completed and the date on which it was completed.

Within thirty (30) days after receipt of the request for Final Acceptance from Contractor, Omnitrans will make a final inspection of the work and will either:

1. Reject the request for Final Acceptance, specifying the defective or uncompleted work; or
2. Issue a written Final Acceptance and record Notice of Completion with County Recorder.

Substantial Completion is defined herein as; In the opinion of Omnitrans, that Work or portion thereof that is sufficiently complete and in accordance with the Contract, that it can be utilized by Omnitrans for the purpose for which it was intended. A determination of Substantial Completion does not waive, but may not require the prior completion of minor items, which do not impair Omnitrans ability to safely occupy and utilize the Work for its intended purpose.

**D. FINAL PAYMENT**

1. After the filing of the Notice of Completion, Omnitrans will make a proposed final estimate, in writing, of the total amount payable to the Contractor, including therein an itemization of said amount, segregated as to contract item quantities, extra work and any other basis for payment, and shall also show therein all deductions made or to be made for prior payments and amounts to be kept or retained under the provisions of the contract. All prior estimates and payments shall be subject to correction in the proposed final estimate. Within 15 days after proposed final estimate has been submitted, Contractor shall submit to Omnitrans written approval of proposed final estimate and/or a written statement of all claims of the contract. No claim will be considered that was not included in written statement of claims, nor will any claim be allowed unless the Contractor has previously complied with the notice and protest requirements.
2. On the Contractor's approval, or if he files no claim within stated period, Omnitrans will issue a final written estimate, in accordance with the proposed final estimate submitted to the Contractor; and 35 days after the date of filing the Notice of Completion Omnitrans will pay the entire sum found to be due. Such final estimate and payment thereon shall be conclusive and binding against the Contractor on all questions relating to the amount of work done and the compensation payable therefore, except as otherwise provided.
3. If the Contractor within said period of 15 days files claims, Omnitrans will issue a semi-final estimate in lieu of the final estimate submitted to the Contractor; and 35 days after the date of filing of the Notice of Completion, Omnitrans will pay the sum found to be due. Such semi-final estimate and payment thereon shall be conclusive and binding against the Contractor on all questions relating to the amount of work done and the compensation payable therefore, except insofar as affected by the claims filed within the time and in the manner required hereunder and except as otherwise provided.
4. Upon final determination of any outstanding claims, Omnitrans shall then make and issue a final estimate in writing and within 30 days thereafter, Omnitrans will pay the entire sum, if any, found due. Such final estimate shall be conclusive and binding against the Contractor on all questions relating to the amount of work done and the compensation payable therefore, except as otherwise provided.

**E. MODIFICATIONS IN THE SPECIFICATIONS AND SCOPE OF WORK**

1. Modifications to the Specifications and or Scope of Work
  - a. Omnitrans may, from time to time, make changes to the Specifications and or Scope of Work under the Contract, through a Change Order.
  - b. A Change Order shall not modify the overall purpose of the Contract.
  - c. At any time during the term of the Contract, Omnitrans may order Additional Services to be performed by the Contractor by a Change Order.
  - d. *Additional Services* are defined as services that were not contained in the Contract and are determined by Omnitrans to be necessary, and where a reasonable relationship to the services originally described in the Contract exists.

- e. Contractor shall not be entitled to make any changes in the services or perform any Additional Services unless authorized, in advance, by written Change Order.
  - f. Contractor shall continue performance of the Scope of Work as modified by the Change Order upon receipt of a Change Order approved by Omnitrans.
  - g. Contractor and Owner hereby agree and acknowledge that execution of the Change Order constitutes a mutual accord and satisfaction as to the work covered hereby. Contractor specifically waives and releases: any and all claims; rights or interest; including, but not limited to, those for: impact; disruption; loss of efficiency; “ripple”; other extraordinary; or consequential costs, arising directly or indirectly out of the work described in this Change Order, except as specifically included herein.
2. Authorization of Additional Work
- a. Authorization to make changes to the Specifications and or Scope of Work under the Contract shall be completed through a written Change Order.
  - b. Persons authorized to make those changes will exclusively be:
    - Contractor:** the person whose duly authorized signature appears on the BID documents and has authority to legally bind the firm.
    - Omnitrans:** CEO/General Manager.
  - c. Either Omnitrans or Contractor may designate other persons as agreed upon in writing or as designated herein.
  - d. For the purposes of this contract, temporary work ordered for special occasions that is not meant to affect the overall purpose and intent of this contract will be issued by Omnitrans under a separate contract and or purchase order. Any such additional work will be under the terms and conditions of that contract or purchase order, but may reference any portions of this contract.
3. Price Adjustments
- a. Any change in the contract that causes an increase or decrease in cost to Omnitrans, or the time required for the performance of the contract, must be approved as prescribed herein.
  - b. An equitable adjustment in the compensation and schedule will be made upon an approved Change Order, which shall be incorporated, into the Contract by reference.
  - c. Contractor shall be liable for all costs resulting from, and or for satisfactorily correcting, any specification changes not properly ordered by written modification to the contract and signed by the Contracting Officer.
  - d. Except as otherwise expressly provided in the Contract, when costs are a factor in any determination of a contract price adjustment, such costs shall be in accordance with the applicable cost principles of Subpart 31.2 of the Federal Acquisition Regulations (FAR) in effect at the onset of the Contract.

**F. CLAIMS**

1. In accordance with Public Contract Code Sections 20104 *et seq.* and other applicable law, public works claims of \$375,000 or less which arise between the Contractor and Omnitrans shall be resolved under the following statutory procedure unless Omnitrans has elected to resolve the dispute pursuant to Public Contract Code Section 10240 *et seq.*
2. **All Claims.** All claims shall be submitted in writing and accompanied by substantiating documentation. Claims must be filed on or before the date of final payment unless other notice requirements are provided in the Contract Documents. "Claim" means a separate demand by the claimant for (1) a time extension, (2) payment of money or damages arising from work done by or on behalf of the claimant and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled, or (3) an amount the payment of which is disputed by Omnitrans. The Contractor shall promptly comply with the Contract Documents in the performance of Work and/or the requests of Omnitrans even though a written claim has been filed. The Contractor and Omnitrans shall make good faith efforts to resolve any and all claims that may arise during performance of the Work covered by this Contract.
3. **Claims Under \$50,000.** Omnitrans shall respond in writing to the claim within 45 days of receipt of the claim, or, Omnitrans may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses or claims Omnitrans may have. If additional information is needed thereafter, it shall be provided upon mutual agreement of Omnitrans and the claimant. Omnitrans' written response shall be submitted 15 days after receiving the additional documentation, or within the same period of time taken by the claimant to produce the additional information, whichever is greater.
4. **Claims over \$50,000 but less than or equal to \$375,000.** Omnitrans shall respond in writing within 60 days of receipt, or, may request in writing within 30 days of receipt of the claim, any additional documents supporting the claim or relating to defenses or claims Omnitrans may have against the claimant. If additional information is needed thereafter, it shall be provided pursuant to mutual agreement between Omnitrans and the claimant. Omnitrans' response shall be submitted within 30 days after receipt of the further documents, or within the same period of time taken by the claimant to produce the additional information or documents, whichever is greater. The Contractor shall make these records and documents available at all reasonable times, without any direct charge.
5. The Contractor will submit the claim justification in the following format:
  - 1) Summary of claim merit and price, and Contract clause pursuant to which the claim is made.
  - 2) List of documents relating to claim
    - (a) Specifications
    - (b) Drawings

- (c) Clarifications (Requests for Information)
  - (d) Schedules
  - (e) Other
- 3) Chronology of events and correspondence
  - 4) Analysis of claim merit
  - 5) Analysis of claim cost
  - 6) Analysis of time impact analysis in CPM format
  - 7) Cover letter and certification of validity of the claim
6. If the claimant disputes Omnitrans' response, or if Omnitrans fails to respond within the statutory time period(s), the claimant may so notify Omnitrans within 15 days of the receipt of the response or the failure to respond, and demand an informal conference to meet and confer for settlement. Upon such demand, Omnitrans shall schedule a meet and confer conference within 30 Days.
7. If following the meet and confer conference, the claim or any portion thereof remains in dispute, the claimant may file a claim pursuant to Government Code 900 et seq. and Government Code 910 et seq. For purposes of those provisions, the time within which a claim must be filed shall be tolled from the time the claimant submits the written claim until the time the claim is denied, including any time utilized for the meet and confer conference.

Submission of a claim, properly certified, with all required supporting documentation, and written rejection or denial of all or part of the claim by Omnitrans, is a condition precedent to any action, proceeding, litigation, suit, general conditions claim, or demand for arbitration by Contractor.

Claims submitted by the Contractor shall be accompanied by a notarized certificate containing the language listed below. Failure to submit the notarized certificate will be cause for denying the claim.

Certificate

Under the penalty of law for perjury or falsification with specific reference to the California False Claims Act, Government Code Section 12650 et. Seq., the undersigned,

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Company)

herby certifies that the claim for the additional compensation and time, if any, made herein for the work on this Contract is a true statement of the actual cost incurred and time sough, and is fully documented and supported under the Contract between the parties

Dated: \_\_\_\_\_

Signature: \_\_\_\_\_

NOTARY CERTIFICATION	
STATE OF _____	}SS:
COUNTY OF _____	
Subscribed and sworn to before me this _____ day of _____, 20____, by _____, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.	
Signature of Notary Public _____	
Printed/typed name of Notary Public _____	
County of residence _____	Date commission expires _____
(SEAL)	

## **G. ACCELERATION**

1. Omnitrans reserves the right to accelerate the work of the Contract at any time during its performance. In the event that Omnitrans directs acceleration, such directive will be given to the Contractor in writing. The Contractor shall keep cost and other Project records related to the acceleration directive separately from normal Project cost records and shall provide a written record of acceleration costs to Omnitrans on a daily basis.
2. In the event that the Contractor believes that some action or inaction on the part of Omnitrans constitutes an acceleration directive, the Contractor shall immediately notify Omnitrans in writing that the Contractor considers the actions or inactions an acceleration directive. This written notification shall detail the circumstances of the acceleration directive. The Contractor shall not accelerate their work efforts until Omnitrans responds to the written notification. If acceleration is then directed or required by Omnitrans, all cost records referred to in section (1) shall be maintained by the Contractor and provided to Omnitrans on a daily basis.
3. In order to recover additional costs due to acceleration, the Contractor must document that additional expenses were incurred and paid by the Contractor. Labor costs recoverable will only be overtime or shift premium costs or the cost of additional laborers brought to the site to accomplish the accelerated work effort. Equipment costs recoverable will only be the cost of added equipment mobilized to the site to accomplish the accelerated work effort.

## **H. STOP PAYMENT NOTICES**

Omnitrans, at its sole discretion, may, at any time, retain out of any amounts due the Contractor, sums sufficient to cover claims filed pursuant to Section 9530 et. seq. of the California Civil Code.

## **I. ORDER OF WORK**

Contractor shall perform work hereunder at such places, and in such order or precedence, as may be determined necessary by the Engineer to expedite completion of the required work.

## **J. LABOR PROVISIONS**

1. Prevailing Wages
  - a. Contractor shall comply with all applicable requirements of Division 2, Part 7, Chapter 1 of the Labor Code and all applicable federal requirements respecting prevailing wages. If there is a difference between the minimum wage rates predetermined by the Secretary of Labor and the wage rates determined by the Director of the Department of Industrial Relations (DIR) for similar classifications of labor, the Contractor and subcontractors shall not pay less than the higher wage rate. The DIR will not accept lower state wage rates not specifically included in the Federal minimum wage determination.
  - b. The Contractor and each subcontractor shall forfeit as a penalty to Omnitrans not more than Two Hundred Dollars (\$200.00) for each calendar day, or portion thereof, for each worker paid less than the stipulated prevailing wage rate for any work done by him, or

by any subcontract under him, in violation of the provisions of the Labor Code. The difference between such stipulated prevailing wage rate and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by the Contractor.

- c. The Contractor shall obtain a copy of the prevailing rates of per diem wages at the commencement of this Agreement from the website of the Division of Labor Statistics and Research of the Department of Industrial Relations located at [www.dir.ca.gov/dlsr/](http://www.dir.ca.gov/dlsr/). In the alternative, the Contractor may view a copy of the prevailing rates of per diem wages upon request to OMNITRANS. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification, or type of worker needed to perform work on the Project available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the Project Site. Contractor shall post, at appropriate conspicuous points on the Project Site, a schedule showing all determined general prevailing wage rates and all authorized deductions, if any, from unpaid wages actually earned.

## 2. Minimum Wages

- a. All mechanics and laborers employed or working upon the site of the work will be paid unconditionally, and not less often than once a week and without subsequent deduction or rebate on any account, the full amounts due at time of payment computed at wage rates not less than those specified in the General Wage Determinations referenced in this section regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics; and the wage determination decision shall be posted by the Contractor at the site of the work in a prominent place where it can be easily seen by the workers. For the purpose of this clause, contributions made or cost reasonably anticipated under the Labor Code of the State of California on behalf of laborers or mechanics are considered wages paid by such Laborers or mechanics. Also for the purpose of this clause, regular contributions made or costs incurred for more than a weekly period under plans, funds or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period.
- b. Omnitrans shall require that any class of laborers or mechanics, including apprentices and trainees, which is not listed in the General Wage Determinations and which is to be employed under this Contract, shall be classified conformably to such wage determinations. In the event Omnitrans does not concur in the Contractor's proposed classification or reclassification of a particular class of laborers and mechanics (including apprentices and trainees) to be used, the question, accompanied by the recommendation of Omnitrans, shall be referred to the State Director of Industrial Relations for determination.
- c. Omnitrans shall require, whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage and the Contractor is obligated to pay a cash equivalent of such a fringe benefit, an hourly cash equivalent thereof to be established. In the event the interested parties cannot agree upon cash equivalent of the fringe benefit, the questions, accompanied by the recommendation of Omnitrans, shall be referred to the State

Director of Industrial Relations for determination.

- d. All disputes concerning the payment of wages or the classification of workers under this Agreement shall be promptly reported to Omnitrans.

### 3. Deductions

In addition to amounts which Omnitrans may retain under other provisions of the Contract Documents Omnitrans may withhold payments due to Contractor as may be necessary to cover:

- a. Stop Payment Notice Claims.
- b. Defective work not remedied.
- c. Failure of Contractor to make proper payments to its subcontractors or suppliers.
- d. Completion of the Contract if there exists a reasonable doubt that the work can be completed for balance then unpaid.
- e. Damage to another Contractor or third party.
- f. Amounts which may be due Omnitrans for claims against Contractor.
- g. Failure of Contractor to keep the record (“as-built”) drawings up to date.
- h. Failure to provide updates on the construction schedule and/or a recovery schedule if required.
- i. Site clean-up.
- j. Failure of the Contractor to comply with requirements of the Contract Documents, including but not limited to Contractor’s failure to provide approved complete as-builts prior to filing of Notice of Completion.
- k. Liquidated damages.
- l. Legally permitted penalties.
  - i. Omnitrans may apply such withheld amount or amounts to payment of such claims or obligations at its discretion with the exception of subsections (a), (c) and (e) of this Article, which must be retained or applied in accordance with applicable law. In so doing, Omnitrans shall be deemed the agent of Contractor and any payment so made by the Contractor shall be considered as a payment made under contract by Omnitrans to Contractor and Omnitrans shall not be liable to Contractor for such payments made in good faith. Such payments may be made without prior judicial determination of the claim or obligations. Omnitrans will render Contractor a proper accounting of such funds disbursed on behalf of the Contractor.

- ii. Upon completion of the Contract, Omnitrans will reduce the final Contract amount to reflect costs charged to the Contractor, back charges or payments withheld pursuant to the Contract Documents.
- iii. All amounts owing by Contractor to Omnitrans under the Contract shall earn interest from the date on which such amount is owing at the lesser of (i) 10% per annum or (ii) the maximum rate allowable under applicable Governmental Rules.

#### 4. Payrolls and Basic Records

- a. Payrolls and basic records relating thereto will be maintained during the course of the work and preserved for a period of three (3) years thereafter for all laborers and mechanics working at the site of the work. Such records will contain the name, address and social security number of each such worker, the correct classification, rates of pay, daily and weekly number of hours worked, deductions made and actual wages paid.
- b. Pursuant to Labor Code Section 1776, the Contractor and each subcontractor shall maintain weekly certified payroll records showing the name, address, social security number, work classification, straight time and overtime hours paid each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed in connection with the work. Contractor shall certify under penalty of perjury that records maintained and submitted by Contractor are true and accurate. Contractor shall also require subcontractor(s) to certify weekly payroll records under penalty of perjury.
- c. The Contractor will submit weekly a copy of all payrolls to Omnitrans as required in these "Labor Provisions" as well as to the Department of Industrial Relations (DIR). See subsection 17, Certified Payroll Compliance Monitoring, in this section. The copy shall be accompanied by a statement signed by the employer or its agent indicating that the payrolls are correct and complete, that the wage rates contained therein are not less than those determined by the State Director of Industrial Relations and that the classifications as set forth for each laborer or mechanic conform to the work performed. A submission of the "Weekly Statement of Compliance," which is required under this Contract, shall satisfy this requirement. The prime Contractor shall be responsible for the submission of copies of payrolls of all subcontractors. The Contractor will make the records required under the labor standard clauses of the contract available for the inspection by authorized representatives of Omnitrans, and will permit such representatives to interview employees during working hours on the job. In the event of noncompliance with the requirements of this Section, the Contractor shall have ten (10) days in which to comply subsequent to receipt of written notice specifying any item or actions necessary to ensure compliance with this section. Should noncompliance still be evident after such ten (10) day period, the Contractor shall, as a penalty to Omnitrans, forfeit One Hundred Dollars (\$100.00) for each day, or portion thereof, for each worker until strict compliance is effectuated. Upon the request of the DIR, such penalties shall be withheld from contract payments.

5. Apprentices and Trainees

- a. Apprentices: Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program as defined in section 1777.5 of the Labor Code of the State of California. The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate who is not registered or otherwise employed as stated above, shall be paid the wage rate determined by the State Director of Industrial Relations for the classification of work he actually performed. The Contractor or subcontractor will be required to furnish to Omnitrans or the State Director of Industrial Relations written evidence of the registration of his program and apprentices as well as the appropriate ratios and wage rates (expressed in percentages of the journeyman's rate contained in the applicable wage determination).
- b. Trainees: Except as provided in 29 CFR 5.15, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to or individually registered in a program which has received prior approval, evidenced by formal certification, by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training. The ratio of trainees to journeymen shall not be greater than that permitted under the plan approved by the Bureau of Apprenticeship and Training. Every trainee must be paid at not less than the rate specified in the approved program for his level of progress. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Bureau of Apprenticeship and Training shall be paid not less than the wage rate determined by the Secretary of Labor for the classification of work he actually performed. The Contractor or subcontractor will be required to furnish the contracting officer or a representative of the Wage-Hour Division of the U.S. Department of Labor written evidence of the certification of his program, the registration of the trainees, and the ratios and wage rates prescribed in that program. In the event the Bureau of Apprenticeship and Training withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- c. Equal Employment Opportunity: The utilization of apprentices and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR, Part 30.

6. Compliance With Copeland Regulations (29 CFR, Part 3)

The Contractor shall comply with the Copeland Regulations (29 CFR, Part 3) of the Secretary of Labor which are herein incorporated by reference.

7. Contract Termination; Debarment

A breach of item 1 through 6 may be grounds for termination of the contract, and for debarment as provided in 29 CFR 5.6.

8. Overtime Requirements

No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any work week in which he is employed on such work to work in excess of 8 hours a day or 40 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 8 hours a day or 40 hours in such work week.

9. Violation; Liability for Unpaid Wages

Pursuant to section 1775 of the Labor Code of the State of California, in the event that any workman employed on this public works project is paid less than the amount specified in the General Prevailing Wage Determinations or less than is required, relative to overtime, the Contractor and any subcontractor responsible therefore shall be liable to the affected workman for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the State of California or Omnitrans for liquidated damages. Such liquidated damages shall be computed with respect to each individual workman found to be underpaid and shall be in the amount of \$50 per calendar day that a workman was underpaid.

10. Withholding for Liquidated Damages

Omnitrans may withhold or cause to be withheld, from any monies payable on account of work performed by the Contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for liquidated damages as provided in this section.

11. Final Labor Summary

The Contractor and each subcontractor shall furnish to Omnitrans, upon the completion of the contract, a summary of all employment, indicating for the completed project, the total hours worked and the total amount earned.

12. Final Certificate

Upon completion of the contract, the Contractor shall submit to Omnitrans, with the voucher for a final payment for any work performed under the contract, a concerning wages and classifications for laborers and mechanics, including apprentices and trainees employed on the project, in the following form:

The undersigned, Contractor on

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(Contract No.)

hereby certifies that all laborers, mechanics, apprentices and trainees employed by the Contractor or by a subcontractor performing work under the contract on the project have been paid wages at rates not less than those required by the contract provisions, and that the work

performed by each such laborer, mechanic, apprentice or trainee conformed to the classifications set forth in the contract or training program provisions applicable to the wage rate paid.

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Signature and Title

13. Notice to Omnitrans of Labor Dispute

Whenever the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice thereof, including all relevant information with respect thereto, to Omnitrans.

14. Disputes Clause

- a. All disputes concerning the payment of prevailing wage rates or classifications shall be promptly reported to Omnitrans for its referral to DOT for decision or, at the option of Omnitrans, DOT referral to the Secretary of Labor. The decision of DOT or the Secretary of Labor, as the case may be, shall be final.
- b. All questions relating to the application or interpretation of the Copeland Act, the Contract Work Hours Standards Act, the Davis-Bacon Act, or Section 13 of the Act shall be sent to the Federal Transit Administration (FTA) for referral to the Secretary of Labor for ruling or interpretation, and such ruling or interpretation shall be final.

15. Convict Labor

In connection with the performance of work under this Contract, the Contractor agrees not to employ any person-undergoing sentence of imprisonment at hard labor. This does not include convicts who are on parole or probation.

16. Insertion in Subcontracts

The Contractor shall set forth in item 1 through 15 of this Section so that all of the provisions of this section will be inserted in all construction subcontracts of any tier, and such other clauses as the Government may by appropriate instructions require.

17. Certified Payrolls Compliance Monitoring

- a. This project is subject to monitoring and enforcement by the Department of Industrial Relations (DIR).
- b. This project is subject to prevailing wages.
- c. Contractors and subcontractors are obligated to submit certified payroll records utilizing the DIR's eCPR system. You can access additional information regarding the DIR's reporting system by using the following link: <http://www.dir.ca.gov/Public-Works/Certified-Payroll-Reporting.html>.

**K. TIME EXTENSION/DELAYS**

1. Contractor may be granted an extension of time for any portion of a delay in completion of the work due to acts of God, the public enemy, wars, civil unrest, fires, quarantine restrictions, or weather more severe than normal, providing that (1) the aforesaid causes were not foreseeable and did not result from an act or omission by the Contractor, (2) Contractor has taken reasonable precautions to prevent further delays owing to such causes, and (3) Contractor notifies Omnitrans in writing of the cause(s) for the delay within ten (10) days from the beginning of any such delay. No claims for additional compensation or damages for the foregoing delays shall be allowed to the Contractor, and the extension of time provided for herein shall be the sole remedy of the Contractor on account of any such delays.
2. An extension of time will not be granted for a delay described in the above paragraph(s) caused by a shortage of materials, except if materials are furnished by Omnitrans, unless the Contractor supplies Omnitrans with documented proof that every effort to obtain the materials from all known sources that (a) such materials could have been obtained only at exorbitant prices or (b) the prices were entirely inconsistent with current rates, taking into account the quantities; and (c) such facts could not have been known or anticipated at the time the Notice To Proceed was issued. Contractor shall also submit proof, that the inability to obtain such materials when originally planned, did in fact, cause a delay in completion of the work that could not be compensated for by revising the sequence of its operations. Only the physical shortage of material will be considered as a basis for an extension of time.
3. An extension of time for weather more severe than normal shall be granted only to the extent the work is actually delayed as determined by Omnitrans. Normal is defined as the monthly average of the temperature and rainfall wherein the work was performed for the prior 20 years before the execution of the contract.
4. In the event Contractor is actually and necessarily delayed by an act or omission on the part of Omnitrans, as determined by Omnitrans, the Contractor shall notify Omnitrans in writing within five (5) days from the beginning of any such delay. The time for completion of the work may be extended at the sole discretion of Omnitrans.
5. Within 30 days after the last day of delay, Contractor shall provide Omnitrans with detailed information concerning the circumstances of the delay, the number of days actually delayed, and the measures taken to minimize or prevent the delay. Failure to submit information shall be sufficient reason to deny the claim. Omnitrans shall ascertain the facts and the extent of the delay; and provide the Contractor its written findings, which will be final and conclusive. Except for the additional compensation for herein and except as provided in Public Contract Code Section 7102, Contractor shall have no claim for damages or compensation for any delay or hindrance.
6. No extension of time will be granted for any Omnitrans caused delay or delay as defined in which (a) the performance of work would have been concurrently delayed by Contractor induced causes, including but not limited to an act or omission of the Contractor, or (b) remedies are included or excluded by any other contract provision. Only the actual delay necessarily resulting from the causes specified in this Article shall be grounds for extension of time. Should the Contractor be delayed at any time for any period by two or more of the

causes specified in this article, Contractor shall only be entitled to one time extension for the entire delay.

7. Any time extension granted to Contractor shall not release the Contractor or surety from its obligations. Work shall continue and be carried on in accordance with the contract provisions, unless formally suspended or terminated by Omnitrans.

#### **L. NONDISCRIMINATION**

During the performance of this Contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex or national origin. Such action shall include, but not be limited to employment; upgrading; demotion; transfer; recruitment or recruitment advertising; layoff; termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post, in conspicuous places available to the employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex or national origin.
3. The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this Section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
5. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations or orders, this Contract may be canceled, terminated or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts or Federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order, of the Secretary of Labor, or as otherwise provided by law.
6. The Contractor will include the provisions of this Paragraph ("Nondiscrimination") in

every subcontract or purchase order entered into under this Agreement unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

7. No person employed on the work covered by this Agreement shall be discharged or in any way discriminated against because he has filed any complaints or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable hereunder to his employer.

**M. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

Contractor agrees to comply with and ensure compliance by all subcontractors with all requirements of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000d; 49 U.S.C. §5332 and Department of Transportation Regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act," 49 CFR Part 21.

**N. GOVERNMENT INSPECTIONS**

Omnitrans or Government representatives shall have access to the construction site and shall have the right to inspect all project works.

**O. LICENSING, PERMITS AND INSPECTION COSTS**

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

construction operations under the jurisdiction of such agency.

3. Contractor shall act as permittee on behalf of Omnitrans for coordination of all associated City of San Bernardino Building Department inspections.

**P. HAZARDOUS SUBSTANCES**

1. CAL-OSHA Requirements

All flammable, corrosive, toxic or reactive materials being bid must have a complete CAL-OSHA Material Safety Data Sheet accompanying the submitted bid.

**Q. MEDIA AND THE PUBLIC**

Contractor shall immediately refer all inquiries from the news media or other public sources to Omnitrans' and CSUSB, or designated representative, relating to this project.

**R. COORDINATION AND ACCESS**

CSUSB may undertake or award other contracts for additional work in the project area. Contractor is responsible for coordinating its work with the work of other Contractors as appropriate. The Contractor acknowledges that they do not have any exclusive access to the site. CSUSB may require that certain facilities and areas be used concurrently by the Contractors and others. Contractor shall cooperate fully with CSUSB Contractors/consultants that may be performing work in the construction area.

**S. UTILITIES RELATED DELAYS**

If, due to interruptions caused by the undocumented utilities, Contractor sustains loss which could not have been avoided by the judicious handling of forces, equipment and plant, there shall be paid to the Contractor that amount that Omnitrans may find to be a fair and reasonable compensation for the part of the Contractor's actual loss, that, in the opinion of Omnitrans was unavoidable, determined as follow: Compensation for idle time of equipment will be determined in the same manner as determinations are made for equipment used in the performance of extra work paid for on a force account basis per Section E, Modifications in the Specifications and Scope of Work, with the following exceptions:

1. The utility related delay factor for each classification of equipment shown in the Department of Transportation publication entitled Labor Surcharge And Equipment Rental Rates will be applied to that equipment rental rate.
2. The time for which the compensation will be paid will be the actual normal working time during which the delay condition exists, but in no case will exceed 8 hours in any one day.
3. The days for which compensation will be paid will be the calendar days, excluding Saturdays, Sundays and legal holidays, during the existence of the delay, except that when the rented equipment can be returned or used elsewhere on the project, then no payment will be made for utilities related delays.

Actual loss shall be understood to include no items of expense other than idle time of equipment and necessary payments for idle time of workers, and cost of extra moving of equipment.

**T. UTILITIES AND SUBSURFACE STRUCTURES**

1. Contractor shall protect from damage utility and other subsurface structures that are to remain in place.
2. Attention is directed to the possible existence of underground main or trunk line utilities not indicated on the plans or in the special provisions and to the possibility that underground main or trunk lines may be in a location different from that which is indicated on the plans or in the special provisions. Contractor shall ascertain the exact location of underground main or trunk lines whose presence is indicated on the plans or in the special provisions, the location of their service laterals or other appurtenances, and of existing service lateral or appurtenances of any other underground facilities which can be inferred from the presence of visible facilities such as buildings, meters and junction boxes prior to doing work that may damage any of the facilities or interfere with their service.
3. If Contractor cannot locate an underground utility whose presence is indicated on the plans or in the special provisions, the Contractor shall so notify Omnitrans in writing. If the utility for which the notice is given is in a substantially different location from that indicated on the plans or in the special provisions, the additional cost of locating the utility will be paid for as extra per Section E, Modifications in the Specifications and Scope of Work.
4. If Contractor discovers underground main, trunk lines or other structures and utilities not indicated on the plans or in the special provisions, Contractor shall immediately give Omnitrans/CSUSB and the Utility Company written notification of the existence of those utilities. Such utilities shall be located and protected from damage as directed by Omnitrans/CSUSB, and the cost of that work will be paid for as extra work per Section E, Modifications in the Specifications and Scope of Work. Contractor shall, if directed by Omnitrans/CSUSB repair any damage which may occur to the main or trunk lines. The cost of that repair work, not due to the failure of the Contractor to exercise reasonable care, will be paid for as extra work per Section E, Modifications in the Specifications and Scope of Work. Damage due to Contractor's failure to exercise reasonable care shall be repaired at the Contractor's cost and expense.
5. Where it is determined by Omnitrans that the rearrangement of an underground utility essential in order to accommodate the project work and the plans and specifications do not provide that the utility is to be rearranged, Omnitrans will provide for the rearrangement of the utility by other forces or the rearrangement shall be performed by Contractor and will be paid for as extra work per Section E, Modifications in the Specifications and Scope of Work.
6. When ordered by Omnitrans in writing, Contractor shall rearrange any utility or other subsurface structures necessary to be rearranged as a part of the project work , and that work will be paid for as extra work per Section E, Modifications in the Specifications and Scope of Work.
7. Should Contractor desire to have any rearrangement made in any utility facility, or other improvement, for the Contractor's convenience in order to facilitate the Contractor's

construction operations, which rearrangement is in addition to, or different from, the rearrangements indicated on the plans or in the special provisions, the Contractor shall make whatever arrangements are necessary with the owners of the utility or other subsurface structure for the rearrangement and bear all expenses in connection therewith.

8. Contractor shall immediately notify Omnitrans of any delays to the Contractor's operations as a direct result of underground utilities or other structures which were not indicated on the plans or in the special provisions or were located in a position substantially different from that indicated on the plans or in the special provisions, (other than delays in connection with rearrangements made to facilitate the Contractor's construction operations or delays due to a strike or labor dispute). These delays will be considered utilities related delays within the meaning of Section S, Utilities Related Delays and compensation for the delay will be determined in conformance with the provisions in Section J, Labor Provisions. Contractor shall be entitled to no other compensation for that delay.

#### **U. LOCATION OF UNDERGROUND UTILITIES (OFFSITE WORK ONLY)**

Contractor is required to obtain permits prior to start of excavation by contacting the appropriate permitting agencies at least 15 calendar days in advance. For the Offsite work, scan the construction site with electromagnetic or sonic equipment, and mark the surface of the ground where existing underground utilities are discovered. Verify the elevations of existing piping, utilities, and any type of underground obstruction not indicated or specified to be removed but indicated or discovered during scanning in locations to be traversed by piping, ducts, and other work to be installed. Verify elevations before installing new work closer than nearest manhole or other structure at which an adjustment in grade can be made. Perform potholing to confirm location of all the utilities along the construction alignment prior to start of the construction. The Contractor is responsible for all costs associated with these investigations including the cost of equipment, labor and materials required for any confined space entry.

#### **V. UNFORESEEN HAZARDOUS OR REGULATED MATERIALS**

1. All known hazardous or regulated materials are indicated in the contract documents. If material that is not indicated in the contract documents is encountered that may be dangerous to human health upon disturbance during construction operations, stop that portion of work and notify Omnitrans immediately. Intent is to identify materials such as PCB, lead paint, mercury, petroleum products, and friable and non-friable asbestos. The handling, containment and disposal of hazardous and containment material shall be in accordance with applicable State, Federal, and local environmental laws and regulations.
2. Contractor shall immediately notify Omnitrans of any delays to the Contractor's operations as a direct result of Unforeseen Hazardous and Regulated Materials These delays will be considered utilities related delays within the meaning of Section S, Utilities Related Delays and compensation for the delay will be determined in conformance with the provisions in Section J, Labor Provisions. Contractor shall be entitled to no other compensation for that delay.

#### **W. CONTRACTOR'S OBLIGATIONS**

1. General - Contractor shall furnish the following on the Project, in accordance with Omnitrans-furnished Contract Documents and all other requirements set forth in the

Contract:

2. Construction Services – Contractor shall furnish labor, material and equipment necessary to construct the Project as designed in a timely manner, in accordance with all construction practices generally accepted as standards of the industry in the State of California, in a good and workmanlike manner, free from construction defects.
3. Compliance with Requirements – Contractor shall perform all services set forth in Paragraph entitled General Guidelines above (in this section), provide all materials and undertake all efforts necessary or appropriate (excluding only those materials, services and efforts that the Contract Documents specify will be furnished by Omnitrans or other persons) to construct the Project in accordance with the requirements of the Contract Documents, the Schedule, all applicable Laws, all Governmental Approvals, the Construction Documents provided to Omnitrans, and all other applicable safety, environmental and other requirements, and other physical limits resulting from constraints affecting the Project, so as to achieve Substantial Completion and Final Acceptance and to perform all required tests by the deadlines specified herein, and otherwise to do everything required by and in accordance with the Contract Documents.
4. Professional Qualifications – Contractor shall perform the Work under the supervision of persons licensed and certified to practice the applicable function/profession in the State of California, by personnel who are careful, skilled, experienced and competent in their respective trades or professions, who are professionally qualified to perform the Work in accordance with the Contract, and who shall assume professional responsibility for the accuracy and completeness of the Work prepared or checked by them.
5. Governing Dimensions – Before commencing any construction work, Contractor shall verify all governing dimensions at the Worksite, examine all adjoining work and activities that may have an impact on Work, and ensure that the Contract Documents (and any other documents related to the Work) accurately depict all governing and adjoining dimensions.
6. Scheduling – Contractor shall schedule and direct its work to provide an orderly work progression, achieve on-time completion of all Milestones set forth in the Schedule, and complete its work within the Contract Time. To accomplish this goal, Contractor shall furnish such employees, materials, facilities and Equipment, and work such hours (including extra shifts, overtime operations, Sundays and holidays), as may be necessary.
7. Means and Methods – Contractor shall be solely responsible for the performance of its Work in accordance with its own means, methods, sequences, and procedures, and for coordination of all portions of its Work in compliance with the Contract.
8. Performance During Disputes – At all times during the term hereof, including during any Dispute, Contractor shall perform as directed by Omnitrans, and shall comply with all provisions of the Contract.
9. Ascertaining Facts – Contractor shall be solely responsible for its failure to ascertain the facts and take the actions described, represented, warranted, and acknowledged in this Article, and no provision of this Contract shall be construed to relieve Contractor from

responsibility for such failure.

10. Subcontractors & Suppliers – Contractor shall be responsible for the acts and omissions of its Subcontractors and Suppliers. Contractor agrees to bind every subcontractor to the terms of this Agreement as far as such terms are applicable to subcontractor’s portion of the Work
11. Assistance to Omnitrans – Contractor shall provide such assistance as is reasonably requested by Omnitrans in dealing with any Government Entity, or in prosecuting and defending Environmental lawsuits in any and all matters relating to the Work. Such assistance may include providing information and reports regarding the Work, as well as executing declarations and attending meetings and hearings. In no event shall the Contractor be required to provide legal services.
12. Cooperation – The Contractor will cooperate with Omnitrans and its Authorized Representative(s), in their review(s) and/or inspection(s) of any portion or phase of the Work, and other matters relating to the Work.
13. Mitigation – The Contractor will Mitigate Delay in all circumstances, to the extent reasonably possible, including the re-sequencing, reallocating or redeploying of its forces to other work, as appropriate.

## **X. CONTRACTOR’S REPRESENTATIONS, WARRANTIES AND COVENANTS**

Contractor represents, warrants and covenants for the benefit of Omnitrans that:

1. Status – If it is a corporation, limited partnership, general partnership, and/or joint venture, it is duly organized, validly existing and in good standing under the Laws of its jurisdiction of formation, and has full power and authority to own and operate its business and properties and perform the Work within the State of California.
2. Contractor & Subcontractor Qualifications – It and all of its Subcontractors are, and will be and will remain, fully experienced and properly qualified to perform the Work, and are, and throughout the term of this Contract shall remain, properly licensed, equipped, organized and financed to perform the Work hereunder and shall perform it in accordance with the Contract and in accordance with professional standards of skill, care, and diligence adhered to by firms recognized for their expertise, experience and knowledge in performing Work of a similar nature.
3. Control of Employees and Subcontractors – It shall maintain complete control of its employees, and its Subcontractors and Suppliers of all tiers, and shall not assign or transfer Work from itself or any listed Subcontractor or Supplier to itself or any other Subcontractor or Supplier without the written consent of Omnitrans.
4. Review of Information and Inspection of Worksites – It has, in accordance with prudent and generally accepted engineering and construction practices:
  - a. Reviewed all of the information provided in the Contract (including reports provided by Omnitrans);

- b. Inspected and evaluated the Worksite and surrounding locations to the extent the Contractor deems necessary or advisable for performing all portions/phases of the Work under the Contract. These inspections and evaluations include without limitation:
  - 1) The character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the Worksite, including review of the Contract Documents provided by Omnitrans.
  - 2) Conditions bearing upon transportation, disposal, handling, and storage of materials, Goods, and Equipment;
  - 3) The availability of labor, water, electric power, and roads;
  - 4) Uncertainties of weather, or physical conditions at the site;
  - 5) The conformation and conditions of the ground;
  - 6) The character of Equipment and facilities needed preliminary to and during Work performance; and
  - 7) Conditions bearing upon security and protection of material, Goods, Equipment, and Work in progress.
5. Physical Requirements – As a result of its inspection and examination of the Worksite, and other related and surrounding sites and conditions, it is familiar with and accepts the physical requirements of the Work.
6. Feasibility – As a result of its review of all the information and its inspection and examination of the Worksite, it has evaluated the feasibility of performing the Contract within the Contract Time and for the Total Contract Price, and has reasonable grounds for believing and does believe that such performance, including achievement of Substantial Completion of the Project within the Contract Time, for the Total Contract Price is feasible and practicable.
7. Legal Proceedings – There are no existing or threatened legal proceedings against Contractor that would have an adverse effect on its ability to perform its obligations under the Contract, its financial condition or its operations.
8. Governmental Approvals – Based upon its review of the Contract Documents, it shall be able to obtain and keep in effect throughout the Contract Time all Governmental Approvals the Contractor is obligated to obtain in accordance with the Contract.
9. Difficulty and Cost of Work – It has estimated the difficulty and cost of successfully performing the Work and, based upon that estimate has concluded that it can successfully perform the Work at the Total Contract Price.

10. Non-Debarment: In accordance with the provisions of the California Labor Code, Contractors or subcontractors may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant section 1777.1 or section 1777.7 of the California Labor Code. Any contract on a public works project entered into between a Contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid to a debarred subcontractor by the Contractor for the Project shall be returned to Omnitrans. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the Project.
  
11. Non-Discrimination: Contractor shall comply with all applicable federal, state, and local laws, rules, and regulations pertaining to non-discrimination, including but not limited to, Section 1735 of the California Labor Code and Section 12940 of the California Government Code. The Contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of Title 49 CFR (Code of Federal Regulations) part 26 in the award and administration of US DOT assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate. Each subcontract signed by the bidder must include this assurance.
  
12. Conflicts of Interest/ Criminal Activities: A Contractor shall not permit any official, officer or employee of Omnitrans during his tenure, or for one year thereafter, to have any interest, direct or indirect, in this Contract or the proceeds thereof. However, this subsection shall not be construed to extend to this Contract if made with a corporation for its general benefit. Contractor, its employees, its Subcontractors or their employees shall not provide or offer to provide any campaign contribution to any member of Omnitrans in violation of California Government Code Section 84308. Further, to Contractor's knowledge, neither Contractor nor any of its employees nor its Subcontractors nor their employees has either promised or provided a campaign contribution of \$250 or more to any member of Omnitrans within 12 months prior to the award of this Contract or any subcontract of this Contract, unless an explicit statement to the contrary accompanies Contractor's bid. In no event shall gratuities (in the form of entertainment, gifts, or otherwise) be offered promised or given by Contractor, or any agent or representative of Contractor, to any official, officer or employee of Omnitrans or its Authorized Representative. Contractor or his employees shall not enter into any Contract involving not be considered a conflict under Sections 1090 et seq. and 87100 et seq. of the Government Code of the State of California. In the event Contractor, or any of its officers, partners, principals or employees are convicted of any crime arising out of, or in connection with, the work to be done or payment to be made under this Contract, this Contract in whole or any part thereof may, at the discretion of Omnitrans, be terminated for default. Any violation of the terms of this Section by Contractor may be considered a default of the Contract by Omnitrans and may result in termination of same pursuant to applicable provisions of this Contract. In the event of such a termination, Omnitrans shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of a breach of the Contract by Contractor. Rights and remedies provided to Omnitrans by this Section are in addition to any additional rights

and remedies provided by law or under the Contract services or property with a person or business prohibited from transacting such business with Omnitrans pursuant to Sections 1090 et seq. and 87100 et seq. of the Government Code of the State of California. To Contractors knowledge, no Board member, officer, or employee of Omnitrans has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, or in the business of Contractor, unless an explicit statement to the contrary accompanies Contractor's bid. If any such transaction comes to the knowledge of Contractor at any time, a full and complete disclosure of such information shall be made to Omnitrans, even if such interest would

**Y. INDEPENDENT CONTRACTOR**

1. Contractor, and its Subcontractors and Suppliers of any tier, are independent Contractors, and nothing in this Contract shall be construed to create the relationship of agent, servant, employee, partnership, joint venture, or other association as between Contractor and Omnitrans. The employees and agents of one party shall not be, or be construed to be, the employees or agents of the other party for any purpose whatsoever.
2. Contractor, as an independent Contractor, shall have responsibility for and control over the details and means for performing the Work, provided that Contractor is in compliance with the terms of this Contract. Anything in this Contract that may appear to give Omnitrans the right to direct Contractor as to the details of the performance of the Work, or to exercise a measure of control over Contractor, shall mean that Contractor shall follow the desires of Omnitrans only as to the intended results of the Work.

**Z. COMPENSATION AND BENEFITS**

Contractor shall be solely liable and responsible for providing all compensation and benefits to, or on behalf of, all persons performing Work pursuant to this Contract. Omnitrans will have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, disability benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of Contractor.

**AA. WORKERS' COMPENSATION INSURANCE AND LIABILITY**

If Contractor employs any person to perform work in connection with this Contract, Contractor 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. Prior to execution of this Contract by any such employee, Contractor 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

**BB. CONTRACTOR'S REPRESENTATIVE, ORGANIZATION AND PERSONNEL**

Before starting any Work, the Contractor shall submit for Engineer review and acceptance, an organization chart showing the proposed organization established by the Contractor for the performance of the Work, including:

1. Lines of authority, responsibility, and communication;
2. Office organizations, if any; and
3. Names, titles, and functions of all the Contractor's key personnel.

**CC. SUPERINTENDENT**

1. The Contractor shall designate and keep a competent superintendent on the work at all times during its progress. The superintendent will be the Contractor's representative at the site and shall have authority to act on behalf of the Contractor. Qualifications and experience shall include:
  - a. Demonstrated ability to work safely and supervise individuals in safe work.
  - b. Previous experience supervising and planning work activities of foremen and crews.
  - c. Ability to read and understand construction plans.
2. The Superintendent must be:
  - a. Able to respond immediately to emergency or problem calls, 7 days a week, 24 hours a day.
3. The Superintendent shall manage and directly oversee the safety, condition, and quality of work that has been modified by the Contractor and shall direct corrective and maintenance measures to keep the site operating safely.

**DD. CHANGE IN CONTRACTOR'S REPRESENTATIVE AND KEY PERSONNEL**

The Contractor shall secure the prior written acceptance by Omnitrans for any change or reassignment of the Contractor's Representative(s) and other key personnel, submitting written documentation of the new individuals' qualifications. The Contractor shall not reassign key personnel to other projects until a satisfactory replacement has been approved by Omnitrans.

**EE. REMOVAL OF CONTRACTOR PERSONNEL**

Omnitrans may require the Contractor to remove any person assigned by the Contractor or by any Subcontractor or Supplier from the Project performing on the Project, if Omnitrans considers such removal in the best interest of Omnitrans and the Work. The Engineers decision to require Contractor to remove any Contractor personnel, including Contractor's Representative, shall be final and binding on the Contractor. Upon such direction, Contractor shall remove the person(s) and resolve all employment or contractual issues at no cost or expense to, and shall fully indemnify, Omnitrans.

**FF. TRENCHES**

1. Trenches Five Feet or More in Depth. The Contractor shall submit to Omnitrans, in advance of excavation, a detailed plan showing the design of shoring, bracing, sloping or other provisions to be made for worker protection from the hazard of caving ground during the excavation of any trench or trenches five feet or more in depth. If the plan varies from shoring system standards, the plan shall be prepared by a registered civil or structural engineer. The plan shall not be less effective than the shoring, bracing, sloping, or other provisions of the Construction Safety Orders, as defined in the California Code of Regulations.
2. Excavations Deeper than Four Feet. If work under this Contract involves digging trenches or other excavation that extends deeper than four feet below the surface, Contractor shall promptly, and before the following conditions are disturbed, notify Omnitrans, in writing, of any:
  - a. Material that the Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.
  - b. Subsurface or latent physical conditions at the Site differing from those indicated.
  - c. Unknown physical conditions at the Site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.
3. Omnitrans shall promptly investigate the conditions, and if it finds that the conditions do so materially differ, or do involve hazardous waste, and cause a decrease or increase in Contractor's cost of, or the time required for, performance of any part of The Work, shall issue a change order under the procedures described in the Contract Documents.
4. In the event that a dispute arises between Omnitrans and the Contractor as to whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of The Work, the Contractor shall not be excused from any scheduled completion date provided for by the Contract, but shall proceed with all Work to be performed under the Contract. Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the parties.

**GG. SANITARY FACILITIES**

Contractor shall provide sanitary temporary toilet buildings for the use of all workers. All toilets shall comply with local codes and ordinances. Toilets shall be kept supplied with toilet paper, hand sanitizers and shall have workable door fasteners. Toilets shall be serviced no less than once weekly and shall be present in a quantity of not less than 1 per 20 workers as required by CAL-OSHA regulation. The toilets shall be maintained in a sanitary condition at all times. Any other Sanitary Facilities required by CAL-OSHA shall be the responsibility of the Contractor.

**HH. AIR POLLUTION CONTROL**

Contractor shall comply with all air pollution control rules, regulations, ordinances and statutes. All containers of paint, thinner, curing compound, solvent or liquid asphalt shall be labeled to indicate that the contents fully comply with the applicable material requirements.

**II. CLEAN UP**

1. Contractor at all times shall keep work area free from debris such as waste, rubbish, and excess materials and equipment. Contractor shall not store debris under, in, or about the premises. Contractor shall remove temporary fencing, barricades, planking and construction toilet and similar temporary facilities from Site. Contractor shall also clean asphalt and concrete areas to the degree necessary to remove oil, grease, fuel, or other stains caused by Contractor operations or equipment.
2. Contractor shall fully clean up the Site at the completion of the Work. If the Contractor fails to immediately clean up at the completion of the Work, Omnitrans may do so and the cost of such clean up shall be charged back to the Contractor.

**JJ. OCCUPANCY**

NA

**KK. STATE LICENSE BOARD NOTICE**

Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against Contractors if a complaint regarding a patent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years of the date of the alleged violation. Any questions concerning a Contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826.

**LL. WAIVER**

No provision of these Contract Documents shall be deemed waived by either party unless such waiver shall be expressly specified in writing, regardless of the actions or inaction of the parties.

**MM. MISCELLANEOUS**

These Contract Documents shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of these Contract Documents, the action shall be brought in a state or federal court situated in the County of San Bernardino, State of California.

**NN. INTEGRATION**

No oral order, objection, direction, claim or notice by any party or person shall affect or modify any of the terms or obligations contained in the IFB.

**OO. SCHEDULE OF WORK**

1. Days and hours available for work are June 17, 2019 through August 25, 2019, weekends and night work permissible to meet construction/operational schedule. Weekends, night work and holidays are permissible provided prior authorization has been coordinated and granted by Omnitrans/CSUSB.
2. Contractor shall submit a Schedule of Work to Omnitrans and CSUSB, as follows:
  - a. Submit within five (5) days after the Notice to Proceed date.
  - b. Show all major elements of the work and their duration and interrelationships; showing the proposed dates of commencement and completion.
  - c. Submit a conceptual schedule with bid.
3. If any activity falls behind schedule, Contractor shall regain the time lost at its own cost and expense.

**PP. EXAMINATION OF WORK SITE**

Bidder shall visit and become acquainted with the work site and the conditions thereof to fully understand the scope of work, difficulties and restrictions attending the execution of the work under contract.

**QQ. OBSTRUCTIONS**

The Contractor shall remove and dispose of all structures, or other obstructions of any character necessary to accommodate the work. Where such obstructions consist of improvements not required by law to be removed by Omnitrans, improvements shall be removed, maintained, and permanently replaced by the Contractor at his expense except as otherwise specifically provided in the Contract.

**RR. QUALITY OF THE WORK**

1. **AUTHORITY OF THE DIRECTOR OF MAINTENANCE**

The Director of Maintenance, and/or designee, shall decide any and all questions which may arise as to the interpretation of the plans and specifications and shall have authority to disapprove or reject materials and equipment furnished and work performed which, in his opinion, is not in accordance with the Contract.

2. **SUPPLEMENTAL DRAWINGS**

- a) The plans may be supplemented by such drawings as are necessary to better define the work. All such drawings delivered to the Contractor by the Project Manager shall be deemed written instructions to the Contractor. If the Contractor believes that any supplemental drawings call for changes in the work for which the contract amount or time for completion should be changed, he shall not proceed with the changes in the work so called for and shall within seven days of the receipt of the supplemental drawings notify the Project Manager in writing of his estimate of the changes in the contract amount and time for completion he believes to be appropriate.

- b) No payment for changes in the work will be made and no change in the time for completion by reason of changes in the work will be made, unless the changes are covered by a written change order approved by Omnitrans in advance of the Contractor's proceeding with the changed work.

3. CONFORMITY WITH CONTRACT DOCUMENTS

- a) The work shall conform to the lines, grades, dimensions, tolerances, and material and equipment requirements shown on the plans or set forth in the specifications. Although measurement, sampling, and testing may be considered evidence as to such conformity, the Project Manager shall be the sole judge as to whether the work or materials deviate from the plans and specifications, and his decision as to any allowable deviations therefore shall be final.
- b) If specific lines, grades, and dimensions are not shown on plans, those furnished by the Project Manager shall govern.

4. MANUFACTURER'S INSTRUCTIONS

All materials and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned in accordance with the instructions of the applicable manufacturer, fabricator, supplier, or distributor, except as otherwise specifically provided in the Contract.

**SS. SUPERVISION AND SUPERINTENDENCE**

1. The Contractor shall supervise and direct the work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the work in accordance with the Contract. The Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction, but the Contractor shall not be solely responsible for the negligence of others in the design or selection of a specific means, method, technique, sequence, or procedure of construction which is indicated in and required by the Contract except as otherwise provided.
2. The Contractor shall be responsible to see that the completed work complies with the Contract.
3. The Contractor shall designate and keep a competent superintendent on the work at all times during its progress, who shall not be replaced without written notice to the Project Manager. The superintendent will be the Contractor's representative at the site and shall have authority to act on behalf of the Contractor. All communications given to the superintendent shall be as binding as if given to the Contractor. During periods when the work is suspended, the Contractor shall make appropriate arrangements for any emergency work, which may be required.
4. Whenever the superintendent is not present on any particular part of the work where the Project Manager may desire to inform the Contractor relative to interpretation of the plans and specifications or to disapproval or rejection of materials or work performed, the Project Manager may so inform the foreman or other worker in charge of the particular part of the work in reference to which the information is given. Information so given shall be as binding as if given to the superintendent.

5. All equipment, materials, and supplies to be incorporated in the work shall be new, unless otherwise specified. All equipment, materials, and supplies shall be produced in a good and workmanlike manner. When the quality of a material, process, or article is not specifically set forth in the plans and specifications, the best available quality of the material, process, or article shall be provided.

**TT. CONTRACTOR'S RESPONSIBILITY FOR THE WORK**

1. In the event any hazardous materials, including but not limited to asbestos, are utilized in construction or hazardous materials are otherwise encountered during construction, the Contractor shall take all appropriate precautions to protect persons and property and shall comply with all applicable regulations for the installation and handling of such hazardous materials. The Contractor is solely responsible for protection of persons and property that could be affected by construction and the Contractor's handling of such materials.
2. Until the acceptance of the work, the Contractor shall have the responsible charge and care of the work and of the materials to be used therein (including materials for which he has received partial payment or materials which have been furnished by the Omnitrans) and shall bear the risk of injury, loss, or damage to any part thereof by the action of the elements or from any other cause, whether arising from the execution or from the non-execution of the work.
3. The Contractor shall rebuild, repair, restore, and make good all injuries, losses, or damages to any portion of the work or the materials occasioned by any cause before its completion and acceptance and shall bear the expense thereof. Where necessary to protect the work or materials from damage, the Contractor shall, at his expense, provide suitable drainage and erect such temporary structures as are necessary to protect the work or materials from damage. The suspension of the work or the granting of an extension of time from any cause whatever shall not relieve the Contractor of his responsibility for the work and materials as herein specified.
4. In an emergency affecting the safety of life or property, including adjoining property, the Contractor, without special instructions or authorizations, shall act at his discretion to prevent such threatened loss or injury.
5. Notwithstanding the foregoing provisions of this clause, the Contractor shall not be responsible for the cost of repairing or restoring damage to the work, which damage is determined to have been proximately caused by an Act of God, in excess of 5 percent of the contracted amount, provided that the work damaged is built in accordance with accepted and applicable building standards and the plans and specifications. For the purposes of this paragraph, "Acts of God" shall include the following occurrence or conditions and effect: earthquakes in excess of a magnitude of 3.5 on the Richter scale.

**UU. PRESERVATION OF PROPERTY**

1. The Contractor shall exercise due care to avoid injury to existing improvements or facilities, utility facilities, adjacent property, and trees and shrubbery that are not to be removed.
2. All trees, shrubbery, and landscaping that are not to be removed, and pole lines, fences, signs, survey markers and monuments, buildings and structures, conduits, pipelines

under or above ground, sewer and waterlines, all highway or street facilities, and any other improvements or facilities within or adjacent to the work shall be protected from injury or damage, and the Contractor shall provide and install suitable safeguards to protect such objects from injury or damage. If such objects are injured or damaged by reason of the Contractor's operation, they shall be replaced or restored at the Contractor's expense to a condition as good as when the Contractor entered upon the work or as good as required by the plans and specifications if any such objects are a part of the work being performed.

3. The fact that any such pipe or other underground facility is not shown on the plans shall not relieve the Contractor of his responsibility under this clause.
4. In addition to any requirements imposed by law, the Contractor shall shore up, brace, underpin, and protect as may be necessary, all foundations and other parts of all existing structures adjacent to and adjoining the site of the work which are in any way affected by the excavations or other operations connected with the performance of the work. Whenever any notice is required to be given by Omnitrans or the Contractor to any adjacent or adjoining landowner or other party before commencement of any work, such notice shall be given by the Contractor.
5. In an emergency affecting the safety of life or property, including adjoining property, the Contractor, without special instructions or authorizations, shall act at his discretion to prevent such threatened loss or injury.

#### **VV. REGIONAL NOTIFICATION CENTER CONTACT**

1. Contractor, except in an emergency, shall contact the appropriate regional notification center at least two working days prior to commencing any excavation if the excavation will be conducted in an area or in a private easement which is known, or reasonably should be known, to contain subsurface installations other than the underground facilities owned or operated by the Owner, and obtain an inquiry identification number from that notification center. No excavation shall be commenced and carried out by the Contractor unless such an inquiry identification number has been assigned to the Contractor or any subcontractor of the Contractor and Omnitrans has been given the identification number by the Contractor.
2. Emergency shall be defined as a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. Emergency includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage (Government Code Section 4216).
3. Subsurface installation means any underground pipeline, conduit, duct, wire, or other structure operated or maintained in or across a public street or public right-of-way (Government Code Section 4216).

#### **WW. SAFETY**

1. In accordance with generally accepted construction practices, the Contractor shall be solely and completely responsible for conditions of the job site, including safety of all persons and property during performance of the work, and the Contractor shall fully

comply with all state, federal and other laws, rules, regulations, and orders relating to safety of workers and all others.

2. The right of the Omnitrans to conduct construction review or observation of the Contractor's performance will not include review or observation of the adequacy of the Contractor's safety measures in, on, or near the construction site.
3. Omnitrans reserves the right to correct unsafe practices by the Contractor's employees, or to stop work until the Contractor makes the necessary corrections.
4. Smoking  
Omnitrans uses designated areas for smoking. Smoking is not allowed at any time in the bus yard, on or in any buildings, or by the entrances to any buildings. Smoking by employees of the Contractor, or sub-Contractors, shall not create a hazardous condition for themselves, co-workers, or employees and property of Omnitrans.
5. Eye Protection
  - a) Per Omnitrans eye protection policy, ANSI Z87 approved eye protection shall be worn by all persons while conducting business outside the boundaries of the established "green zone". The policy also requires that eye protection be utilized if hazardous work is being conducted within the "green zone". The Contractor shall ensure that all of its employees have been provided eye protection that meets the requirement.
  - b) The Project Manager or his designee, reserves the right to stop the Contractor's work in the event that a Contractor employee is in violation, and that work will remain stopped until the violation is corrected.
6. Vests
  - a) Contractors and their employees working or performing services in outside work zones shall wear ANSI Class 2 Safety Vests. ANSI Class 2 Safety Vests must be worn at all times in the bus yard and in the relief vehicle locations.
  - b) Safety Vests are not required while in designated, marked with painted green borders Safety Zones on Agency property or while on sidewalks, curbs, or raised pavement.
7. Hazardous Materials
  - a) Contractor shall perform all work in a clean, safe and professional manner, causing no hazards to Omnitrans staff, facility the environment or Contractors service personnel.
  - b) All hazardous waste shall be handled, collected, stored and disposed of in accordance with federal, state and local environmental compliance regulations.
  - c) Coordination of hazardous waste collection, storage, and disposal shall be made through the Omnitrans' Facility Manager, or his designee.

## **XX. WARRANTY OF TITLE**

No materials, supplies, or equipment for the work under this contract shall be purchased subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest therein or any part thereof is retained by the seller or supplier. The Contractor warrants

clear and good title to all materials, supplies, and equipment installed and incorporated in the work and agrees upon completion of all work to deliver the premises, together with all improvements and appurtenances constructed or placed thereon by him, to Omnitrans free from any claims, liens, encumbrances, or charges and further agrees that neither he nor any person, firm, or corporation furnishing any material or labor for any work covered by the contract shall have any right to a lien upon the premises or any improvement or appurtenance thereon, provided that this shall not preclude the Contractor from installing metering devices or other equipment of utility companies or of municipalities, the title of which is commonly retained by the utility company or the municipality. Nothing contained in this clause, however, shall defeat or impair the right of such persons furnishing materials or labor under any bond given by the Contractor for their protection or any right under any law permitting such persons to look to funds due the Contractor in the hands of Omnitrans. The provisions of this clause shall be inserted in all subcontracts and material contracts, and notices of its provision shall be given to all persons furnishing materials for the work when no formal contract is entered into for such materials.

**YY. PROPERTY RIGHTS IN MATERIALS**

1. Nothing in the contract shall be construed as vesting in the Contractor any right of property in the materials used after they have been attached or affixed to the work or the soil, or after payment has been made for materials delivered to the site of the work, or stored subject to or under the control of Omnitrans. All such materials shall become the property of Omnitrans upon being so attached or affixed or upon payment for materials delivered to the site of the work or stored subject to or under the control of Omnitrans.
2. Soil, stone, gravel, and other materials found at the site of the work and which conform to the plans and specifications for incorporation into the work may be used in the work. No other use shall be made of such materials except as may be otherwise described in the plans and specifications.

**ZZ. MUTUAL RESPONSIBILITY OF CONTRACTORS**

1. Nothing in the contract shall be interpreted as granting to the Contractor exclusive occupancy of the site of the project. The Contractor must ascertain to his own satisfaction the scope of the project and the nature of any other contracts that have been or may be awarded by Omnitrans in the construction of the project, to the end that the Contractor may perform this contract in the light of such other contracts, if any.
2. The Contractor shall not cause any unnecessary hindrance or delay to any other Contractor working on the project. If the performance of any contract for the project is likely to be interfered with by the simultaneous performance of some other contract or contracts, the Project Manager shall decide which Contractor shall cease work temporarily and which Contractor shall continue or whether the work under the contracts can be coordinated so that the Contractors may proceed simultaneously. On all questions concerning conflicting interest of Contractors performing related work, the decision of the Project Manager shall be binding upon all Contractors concerned and Omnitrans, the Project Manager, and their Contractors shall not be responsible for any damages suffered or extra costs incurred by the Contractor resulting directly or indirectly from the award or performance or attempted performance of any other

contract or contracts on the project or caused by a decision or omission of the Project Manager respecting the order of precedence in the performance of the contracts.

3. If through acts of neglect on the part of the Contractor, any other Contractor or any subcontractor shall suffer loss or damage on the work, the Contractor agrees to settle with such other Contractor or subcontractor by agreement or arbitration, if such other Contractor or subcontractor will so settle. If such other Contractor or subcontractor shall assert any claim against Omnitrans, the Project Manager, or their Contractors or any of their directors, officers, employees, or agents on account of any damage alleged to have been so sustained, Omnitrans shall notify the Contractor who shall hold harmless, indemnify, and defend Omnitrans, the Project Manager, and their Contractors, and each of their directors, officers, employees, and agents against any such claim, including all attorneys' fees and any other costs incurred by the indemnified parties relative to any such claim.

### **AAA. ASSIGNMENT OF ANTI-TRUST ACTIONS**

1. In entering into a public works contract or subcontract to supply goods, services, or materials pursuant to a public works contract, the Contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2 [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the Contractor, without further acknowledgment by the parties.
2. In submitting a bid, the bidder offers and agrees that if the bid is accepted, it will assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2 [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the awarding body pursuant to the bid. Such assignment shall be made and become effective at the time the awarding body tenders final payment to the bidder.

### **BBB. EXISTING CONDITIONS**

1. Drawings, if any, show existing conditions as supposed or believed. Drawings are based on the best evidence and information available, but no warranty is thereby expressed or implied that such conditions actually exist.
2. Omnitrans and any of its Contractors shall not be liable for any loss sustained by Contractor as a result of any variance between existing conditions as indicated on the plans and the actual conditions revealed during the progress of the work, provided that the Contractor should have reasonably known of or identified the existing condition.

### **CCC. WARRANTY OF SCOPE OF WORK AND FIRM FIXED PRICE**

1. Contractor represents and warrants that in setting the Firm Fixed Price herein, that:
  - a) Contractor has done so after a thorough review of the description of work, plans, drawings and specifications;

- b) Contractor deems that the aforementioned documents are sufficiently complete to enable Contractor to establish the Firm Fixed Price set forth herein;
  - c) Contractor deems the contract price is adequate to provide all the necessary labor, service, equipment or material to complete the work as stated herein, according to industry standards and good workmanship, and within the contract time set forth herein.
2. Contractor acknowledges that except for adjustments in the Firm Fixed Price by change orders, Contractor shall build the project in conformance to the contract documents and Omnitrans shall in no event be chargeable for more than the Firm Fixed Price.

#### **DDD. OBSERVATION OF WORK BY PROJECT MANAGER**

1. At all times The Project Manager shall have access to the work during construction and shall be furnished with every reasonable facility for ascertaining full knowledge respecting the progress, workmanship, and character of materials and equipment used and employed in the work.
2. Whenever the Contractor varies the normal period during which work or any portion of it is carried on each day, he shall give timely notice to the Project Manager so that the Project Manager may be present to observe the work in progress. If the Contractor fails to give such timely notice, any work done in the absence of the Project Manager will be subject to rejection.
3. The Contractor shall give timely notice to the Project Manager in advance of backfilling or otherwise covering any part of the work so that the Director of Maintenance may observe such part of the work before it is concealed.
4. The observation, if any, by the Project Manager of the work shall not relieve the Contractor of any of his obligations to fulfill the contract as prescribed. Defective work shall be made good. Materials and equipment furnished and work performed which is not in accordance with the Contract documents may be rejected notwithstanding the fact that such materials, equipment, and work have been previously observed by the Project Manager or that payment therefore has been included in an estimate for payment.

#### **EEE. REMOVAL OF DEFECTIVE AND UNAUTHORIZED WORK**

1. Any work which does not conform to the requirements of the Contract documents shall be remedied or removed and replaced by the Contractor, together with any other work which may be displaced in so doing, and no compensation or extension of time will be allowed him for such removal, replacement, or remedial work. All nonconforming materials shall be immediately removed from the site.
2. Costs for re-testing and re-inspecting construction that replaces or is necessitated by work that failed to comply with the Contract Documents will be charged to Contractor and the Contract Price will be adjusted by Change Order.
3. Any work done beyond the lines and grades shown on the plans or established by the Project Manager or any changes in, additions to, or deductions from the work done without written authority will be considered as unauthorized and will not be paid for. Work so done may be ordered remedied, removed, or replaced at the Contractor's expense.

4. Upon failure on the part of the Contractor to comply promptly with any order of the Project Manager made under the provisions of this Contract, the Project Manager shall have authority to cause non-conforming materials, rejected work, or unauthorized work to be remedied, removed, or replaced at the Contractor's expense and to deduct the costs from any moneys due or to become due to the Contractor.

#### **FFF. USE OF COMPLETED PORTIONS**

1. When the Work or any portion of it is sufficiently complete to be utilized or placed into service, Omnitrans shall have the right upon written notification to the Contractor to utilize such portions of the work and to place the operable portions into service and to operate same.
2. Upon said notice and commencement of utilization or operation by Omnitrans, the Contractor shall be relieved of the duty of maintaining the portions so utilized or placed into operation; provided, however, that nothing in this article shall be construed as relieving the Contractor of the full responsibility for completing the work in its entirety, for making good defective work and materials, for protecting the work from damage, and for being responsible for damage and for the work as set forth in the Contract nor shall such action by Omnitrans be deemed completion and acceptance, and such action shall not relieve the Contractor, his sureties, or insurers of the provisions of Contractor's insurance, indemnity, and guarantees.

#### **GGG. PROJECT COMPLETION**

Project completion shall be defined as the date on which it is agreed by Omnitrans and its representatives, Contractor and permitting agencies that the project is accepted.

#### **HHH. OBLIGATION TO CONTINUE WORK**

Contractor, in the event of any dispute or controversy with Omnitrans over any matter whatsoever, shall not cause any delay or cessation in or of Contractor's work, but shall proceed under the contract with the performance of the work required thereby.

#### **III. SUSPENSION OF WORK BY OMNITRANS**

1. Omnitrans may, without cause, order Contractor in writing to suspend, delay, or interrupt the work in whole or in part for such period of time as Omnitrans may determine.
2. An adjustment shall be made for increases in the cost of performance of the contract, including profit on the increased cost of performance caused by suspension, delay or interruption.
3. No adjustment shall be made to the extent that:
  - d) Performance is, was or would have been so suspended, delayed or interrupted by another cause for which Contractor is responsible;
  - e) Force Majeure;
  - f) An equitable adjustment was made under another provision of this contract.

4. Any such petitions for adjustments are subject to audit, Federal Cost Principles, and any other provision of this contract.

### **JJJ. GENERAL REQUIREMENTS**

1. Contractor to field verify all areas for appropriate square footages, linear feet, etc.
2. It is the Contractor's responsibility to coordinate the Work so as to minimize conflicts and optimize efficiency.
3. If and when it should be necessary for the Contractor to impact day-to-day operations of Omnitrans functions in order to pursue the Work, the Contractor shall furnish adequate notice to Omnitrans and coordinate the means and timing to avoid, minimize, or circumvent such impacts. Omnitrans reserves the right to assess and anticipate such impacts and the right to stop or postpone the Work until a mutually satisfactory time and means can be agreed upon.
4. The Contractor shall not stop or park any of his vehicles in such a manner to prevent the timely entrance and exit of Omnitrans coaches from the parking area. Our customers expect prompt service, and our service is scheduled on a tight timeline, and we will not accept any delays.
5. All Work is to comply with all applicable state and city code requirements.
6. The Contractor shall ensure that all of his operations strictly adhere to all Federal, State, and Local safety and environmental laws and regulations. Omnitrans, in accordance with the dual employer law, reserves the right to correct unsafe practices by the Contractor's employees, or stop work until the Contractor makes the appropriate corrections.
7. The Contractor shall arrange for the disposal of all materials generated in the performance of this contract. No trash or waste of any kind that is generated by the Contractor shall be disposed of in any receptacle that is in place for the use of our employees. Any trash or waste that must be disposed of by Omnitrans due to the Contractor's failure to provide for proper disposal will result in a liquidated damage to the Contractor equal to the cost of disposal plus the labor costs associated with making those arrangements.
8. Contractor to repair any damage to irrigation or landscaping as a result of construction activity.

### **KKK. WARRANTY**

1. Contractor warrants all Work under the Contract (which for purposes of this Section shall be deemed to include unauthorized work which has not been removed and any non-conforming materials incorporated into the Work) to be of good quality and free from any defective or faulty material and workmanship.
2. Contractor agrees that for a period of one year (or the period of time specified elsewhere in the Contract or in any guarantee or warranty provided by any manufacturer or supplier of

- equipment or materials incorporated into the Work, whichever is later) after the date of final acceptance, Contractor shall within ten (10) days after being notified in writing by Omnitrans of any defect in the Work or non-conformance of the Work to the Contract, commence and prosecute with due diligence all Work necessary to fulfill the terms of the warranty at its sole cost and expense.
3. Contractor shall act sooner as requested by Omnitrans in response to an emergency.
  4. In addition, Contractor shall, at its sole cost and expense, repair and replace any portions of the Work (or work of other contractors) damaged by its defective Work or which becomes damaged in the course of repairing or replacing defective Work. For any Work so corrected, Contractor's obligation hereunder to correct defective Work shall be reinstated for an additional one-year period, commencing with the date of acceptance of such corrected Work. Contractor shall perform such tests as Omnitrans may require, to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Contract. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstatement of equipment and materials necessary to gain access, shall be the sole responsibility of Contractor.
  5. All warranties and guarantees of subcontractors, suppliers and manufacturers with respect to any portion of the Work, whether express or implied, are deemed to be obtained by Contractor for the benefit of Omnitrans, regardless of whether or not such warranties and guarantees have been transferred or assigned to Omnitrans by separate agreement and Contractor agrees to enforce such warranties and guarantees, if necessary, on behalf of Omnitrans.
  6. In the event that Contractor fails to perform its obligations under this Section, or under any other warranty or guaranty under this Contract, to the reasonable satisfaction of Omnitrans, Omnitrans shall have the right to correct and replace any defective or non-conforming Work and any work damaged by such work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse Omnitrans for any expenses incurred hereunder upon demand.

\*End of General Provisions\*

**ATTACHMENT E - SPECIAL PROVISIONS**  
**MNT19-17**  
**CONCRETE BUS PAD CSUSB**

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**SP-01 GLOSSARY OF TERMS**

**1.1 Abbreviations and Symbols**

The following abbreviations are used in these documents:

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

ANSI	American National Standards Institute
CFR	Code of Federal Regulations
CCO	Contract Change Order
CPM	Critical Path Method
ISEA	International Safety Equipment Association
LDs	Liquidated Damages
NOAA	National Oceanic and Atmospheric Administration
NTP	Notice To Proceed
OSHA	United States Department of Labor, Occupational Safety and Health Administration, and Occupational Safety and Health Act
CSUSB	California State University, San Bernardino
PROJECT STAKEHOLDER	California State University, San Bernardino (CSUSB),Omnitrans

**SP-02 LIQUIDATED DAMAGES**

Section Not Used

**SP-03 SECURITY SERVICES:**

Section Not Used

**SP-04 UTILITIES**

- A. GENERAL -- The Contractor shall protect from damage utility and other subsurface structures that are to remain in place, be installed, relocated or otherwise rearranged (as used herein, rearranged includes installation, relocation, alteration or removal). The Contractor shall notify Omnitrans Project Manager immediately of any conflict. The Contractor shall match existing products. The Contractor is responsible for coordinating work with the utility owners.
- B. Certain companies, governmental agencies, or their contractors may be working within the construction area. Certain utility facilities at various locations within the Project limits may be

removed, relocated, abandoned, or installed by companies' or agencies' contractors. The Contractor shall coordinate his work with utility owners and their contractors.

- C. The Contractor shall exercise due caution to prevent any damage to/or movement of these utility facilities. Listed below are the utilities that may be affected, with the designated contact person. These names and phone numbers are listed for information purposes only.
- D. The Contractor is responsible for verifying phone numbers and contact persons.

1. SAN BERNARDINO MUNICIPAL WATER DEPARTMENT  
Water Utility Engineering Section  
300 North "D" Street, 5th Floor  
San Bernardino, CA 92418  
Phone: (909) 384-7224 Attn: Miguel Guerrero, Principal Engineer SP-35

2. CALIFORNIA STATE UNIVERSITY SAN BERNARDINO  
Leatha J. Elsdon, Architect, LEED AP  
Director, Facilities Planning, Design & Construction  
California State University, San Bernardino  
5500 University Parkway FM 102  
San Bernardino, CA 92407 – 2393  
Phone: (909) 537-3182, Mobile: (909) 936-3922

- B. CONTRACTOR'S RESPONSIBILITY -- The Contractor shall verify the location of all underground utilities and services before proceeding with the work, requesting in advance the services of inspectors from the utility companies in order to ascertain said locations. Damage to underground utilities resulting from neglect on the part of the Contractor shall be corrected and paid for by the Contractor.
- C. COOPERATION AND COLLATERAL WORK -- The Contractor is responsible to coordinate with CSUSB, Omnitrans, and any other affected parties.
- D. UTILITIES NOTIFICATION -- The Contractor shall notify all owners of public utilities seventy-two (72) hours in advance of excavating around any of their facilities and shall also provide the same notice to Underground Service Alert of Southern California, telephone number 1/800/422-4133.
- E. UTILITIES INTERFERENCE -- Utilities which are found, by exploratory location or by excavation, to interfere with the construction of this Contract will be relocated, altered, or reconstructed, or may be ordered a change in location, line or grade of the project structure, to be built in order to avoid said utility. The Contractor may coordinate the work with the utility owners, if so directed.

Abandoned utilities, which interfere with the construction of any portion of this Contract, may be cut by the Contractor, the interfering portion of the utility removed and open ends of the pipe sealed with a suitable plug or cap.

Upon the occurrence of emergency events, reporting and coordination shall be coordinated through Omnitrans/CSUSB.

- F. PAYMENT -- Full compensation for conforming to the requirements of this Section, not otherwise provided for, shall be considered as included in the prices paid for the various Contract bid items of work involved and no additional compensation will be allowed therefore.

**SP-05 PROSECUTION AND COMPLETION OF WORK**

Contractor shall commence performance of the Work on the date specified in the formal Notice to Proceed (NTP) issued to the Contractor. Contractor shall furnish sufficient labor (including extra crews) and facilities and shall work such hours (including extra shifts and overtime operations) so as to prosecute the Work to completion in accordance with the following project milestones:

- Completion 70 calendar days; work window is June 17, 2019 through August 25, 2019
- Work may be conducted Monday through Sunday, 24 hours a day, with the following restrictions:
  - sbX articulated bus and 40-foot buses will be relocated during construction. No coordination required for bus operations. sbX platform driveway will be available for laydown.

The Contractor is not authorized to perform any work unless it receives a Notice-to Proceed written authorization to begin.

**SP-06 NOTICE AND SERVICE THEREOF**

Section Not Used

**SP-07 DOCUMENTS FURNISHED BY OMNITRANS**

The following documents will be made available with the contract documents to the Contractor.

DOCUMENT	QUANTITY
Scope and Technical Specifications	11
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**SP- 08 CONSTRUCTION SAFETY AND SECURITY**

- A. Contractor shall be responsible for compliance with all safety rules and regulations of the Federal Occupational Safety and Health Act of 1970, and all applicable State and local laws, ordinances, and regulations during the performance of construction at the Work Site.
- B. In accordance with the Contract, the Contractor shall indemnify Omnitrans for fines, penalties, and corrective measures that result from the acts of the Contractor, its subcontractors, agents, employees, and assigns and their failure to comply with safety rules, laws, ordinances and regulations.
- C. The Contractor shall be solely responsible for accident prevention and job site safety on the Project. In accordance with 29 CFR 1926.16, this responsibility cannot be delegated to subcontractors, suppliers, Omnitrans, or other persons. Incompliance with these provisions, the Contractor shall perform the following:
  - (1) Stop any construction site activity when, in their opinion, such stoppage is warranted for the protection of life and/or property;
  - (2) Plan and execute all work to comply with all applicable federal, state and local laws, regulations; industry standards and this Contract's requirements with regard to safety, as well as the stated objectives and safety requirements contained in the Contractor's Safety Plan;

- (3) Develop, administer, and properly conduct all applicable statutory safety education/training programs mandated by the US. Dept. of Labor (OSHA) and CAL OSHA;
  - (4) Conduct initial and annual orientation and training programs for employees which shall include, as a minimum, a review of hazards present in the area in which they will be working and the personal protective equipment and apparel the workers will be required to use or wear as specified under OSHA (State and Federal);
  - (5) Ensure that formal safety meetings are conducted on a weekly basis. Computerize Documentation of topics discussed and attendees shall be maintained;
  - (6) Ensure that any and all such training is presented in English, as well as the predominant language of the majority of the applicable work force, if that is different from English;
  - (7) Furnish and enforce the wearing and use of the following required personal protective equipment for all Contractor and subcontractor personnel working on the Project:
    - (a) Hard hats, meeting the requirements of ANSI-Z89.1, at all times;
    - (b) Work boots, meeting the requirements of ANSI-Z41, Class 75, at all times;
    - (c) Eye protection with side shields, meeting the requirements of ANSI Z87.1, at all times;
    - (d) Warning vests made of high visibility material with reflectorized tape, meeting the requirements of ANSI/ISEA-107 Class II, at all times;
    - (e) Ear protection, respirators, protective clothing and gloves, safety belts, safety harnesses, lifelines and lanyards, and any and all other personal protective equipment, in accordance with OSHA's specific guidelines for work activities and conditions that necessitate such items for work safety.
  - (8) Ensure that all of the Contractor's subcontractors, suppliers, vendors and other visitors to the Work Site are properly informed of and comply with all applicable Contractor safety plans and programs, to include all personal protective equipment requirements;
  - (9) Notify CSUSB and Omnitrans Project Manager immediately if a safety inspector from OSHA and/or EPA arrives at the Work Site;
- D. Members of the Contractor's staff must be qualified and shall have will have responsibilities with respect to safety:
- (1) Contractor's Project Manager, hereinafter referred to as PM, will ensure compliance with all safety provisions of the Contract, including the Safety Plan, OSHA, CAL OSHA, CSUSB, and other Agency and industry safety

requirements and standards. Additional safety duties of the PM shall include the following:

- (a) Review and direct immediate action to correct all non-standard safety conditions brought to his/her attention;
- (b) Take an active part in all supervisory safety meetings, including the discussion of observed unsafe work practices and corrective actions, and encouragement of safety suggestions from employees;
- (c) Ensure that a job-site "Safety Bulletin Board" is established and maintained to include all required postings and relevant safety posters/information; and
- (d) Cooperate with CSUSB and Omnitrans Project Manager.

#### **SP-09 PROJECT SITE MAINTENANCE**

##### **1. Cleanup and Dust Control.**

Throughout all phases of construction, including suspension of work, and until the final acceptance, the Contractor shall keep the site clean and free from rubbish and debris. The Contractor shall also abate dust nuisance by cleaning, sweeping and sprinkling with water, or other means as necessary. The use of water resulting in mud at CSUSB and on public streets will not be permitted as a substitute for sweeping or other methods. The Contractor shall provide and operate a self-loading motor sweeper with spray nozzles every day for the purpose of keeping the entire project site clean as acceptable to CSUSB and Omnitrans. Payment for the cleanup and dust control shall be included in the price paid for other items of work. No additional payment will be made for project site maintenance.

Materials and equipment shall be removed from the site as soon as they are no longer necessary. Before the final inspection, the site shall be cleared of equipment, unused materials, and rubbish so as to present a satisfactory clean and neat appearance. All cleanup costs shall be included in the Contractor's Bid.

Care shall be taken to prevent spillage on haul routes. Any such spillage shall be removed immediately and the area cleaned.

Forms and form lumber shall be removed from the site as soon as practicable after stripping. Failure of the Contractor to comply with the Project Manager cleanup orders may result in an order to suspend work until the condition is corrected. No additional compensation will be allowed as a result of such suspension.

##### **2. Final Cleanup.**

Upon completion of the project and before making application to the Project Manager for acceptance of the work, the Contractor shall clean all the streets and grounds occupied or used by Contractor in connection with the project, of all rubbish, debris, excess material, temporary structures and equipment, leaving the entire site of the work in a neat and presentable condition.

##### **3. Air Pollution Control.**

Contractor shall comply with all air pollution control rules, regulations, ordinances and statutes. All

containers of paint, thinner, curing compound, solvent or liquid asphalt shall be labeled to indicate the contents fully comply with the applicable material requirements.

4. Control of Fugitive Dust.

The Contractor shall comply with all rules of the South Coast Air Quality Management District, including Amended Rule 403.

5. Sanitation.

The Contractor shall provide and maintain a sufficient number of enclosed toilets for the use of employees engaged in the Work. These accommodations shall be maintained in a neat and sanitary condition. They shall also comply with all applicable laws, ordinances, and regulations pertaining to public health and sanitation of dwellings and camps.

Wastewater shall not be interrupted. Should the Contractor disrupt existing sewer facilities, sewage shall be conveyed in closed conduits and disposed of in a sanitary sewer system.

Sewage shall not be permitted to flow in trenches or be covered by backfill.

6. Temporary Light, Power, and Water.

The Contractor shall furnish, install, maintain, and remove all temporary light, power, and water at its own expense. These include piping, wiring, lamps, and other equipment necessary for the Work. The Contractor shall not draw water from any fire hydrant (except to extinguish a fire), without obtaining permission from the water agency concerned.

7. Water Pollution Control.

The Contractor shall exercise every reasonable precaution to protect channels, storm drains, and bodies of water from pollution. It shall conduct and schedule operations so as to minimize or avoid muddying and silting of said channels, drains, and waters. Water pollution control work shall consist of constructing those facilities, which may be required to provide prevention, control, and abatement of water pollution.

8. Drainage Control.

The Contractor shall maintain drainage within and through the work areas. Earth dams will not be permitted in paved areas. Temporary dams of sandbags, asphaltic concrete, or other acceptable material will be permitted when necessary. Such dams shall be removed from the site as soon as their use is no longer necessary.

9. Sound and Vibration Control.

The Contractor shall comply with all local sound control and noise level rules, regulations and ordinances. No internal combustion engine shall be operated on the project without a muffler of the type recommended by the manufacturer. Should any muffler or other control device sustain damage, the Contractor shall promptly remove the equipment and shall not return said equipment to the job until the device is repaired or replaced. Said noise and vibration level requirements shall apply to all equipment on the job or related to the job, including but not limited to, trucks, transit mixers or transit equipment that may or may not be owned by the Contractor.

10. Technical Specifications.

See Technical Specifications for any modifications to the items addressed in this Section 09

"Project Site Maintenance" (if applicable).

**SP-10 STANDARD WORK WEEK**

Eight (8) hours of work shall constitute a legal day's work. The Contractor and each subcontractor shall forfeit, as penalty to Omnitrans, twenty-five dollars (\$25) for each worker employed in the execution of Work by the Contractor or any subcontractor for each day during which such worker is required or permitted to work more than eight (8) hours in any one day and forty (40) hours in any week in violation of the provisions of the Labor Code, and in particular, Section 1810 to Section 1815, except that work may be performed by employees of the Contractor and his subcontractors in excess of eight hours per day at not less than one and one-half times the basic rate of pay, as provided in Labor Code Section 1815.

Work shall be accomplished on a regularly scheduled eight (8) hour per day work shift basis, Monday through Sunday, 24 hours a day as necessary for the completion of the work within the work window.

**SP-11 HOLIDAYS**

Independence Day                      July 4, 2019

**SP-12 PAYMENT OF PREVAILING WAGES**

This project is funded under a financial assistance contract by the U.S. Department of Transportation and is subject to all conditions of the Davis-Bacon Act (40 U.S.C. 276a) and the Labor Code of the State of California commencing in Section 1770 et. seq. It is required that all mechanics and laborers employed or working at the site be paid not less than the current basic hourly rates of pay and fringe benefits. Wage schedules are attached or available on the internet at:

[www.dir.ca.gov/DLSR/statistics\\_research.html](http://www.dir.ca.gov/DLSR/statistics_research.html)

and

<https://www.wdol.gov/dba.aspx>

Bidders shall utilize the relevant prevailing wage determinations in effect on the first advertisement date of the Invitation for Bids. In the event there are any differences between the minimum wage rates as determined by the United States Secretary of Labor and those determined by the State of California, the highest rate **MUST BE PAID**.

**SP-13 WEATHER DELAYS CAUSED BY RAIN**

The Contractor will not be entitled to damages, additional compensation, or time extension resulting from severe weather as referred to in the Article entitled Extension of Time, in Contract Document General Provisions. The Contractor shall build into the construction CPM schedule to include typical rain days in the San Bernardino region to meet the Project milestones. Historic local climate data as published by National Oceanic & Atmospheric Administration (NOAA) National Weather Service for the 48 years on record shall be the basis of calculating rain days that will affect the Contractor's ability to work.

**SP-14 RIGHTS-OF-WAY, EASEMENTS AND PREMISES**

The Contractor shall be responsible for all permits, CSUSB coordination, and traffic control for all work at the project site.

**SP-15 FINES ASSESSED FOR NON-COMPLIANCE**

Any fines assessed by a governing agency to Omnitrans for any violation relative to the work performed by the Contractor due to Contractor's negligent conduct or non-compliance with any governing agency requirements will be borne by the Contractor.

**SP-16 CLASSIFICATION OF CONTRACTOR'S LICENSE**

All bidders must possess the proper license at the time of Contract award. A California State Contractor's License, Classification "A", General Engineering Contractor, is required of the prime bidder. All subcontractors must possess the appropriate licenses for each specialty subcontracted.

A. Contractor's Capabilities, Licenses and Registrations

1. General – For the duration of the Work, Contractor, and its Subcontractors shall possess and maintain the following:
  - a) Experience and professional capability to perform the Work; and
  - b) All required State of California Contractors license(s), Professional license(s) and registrations needed for the Work.
2. Evidence of Valid Licenses/Registrations – Proof of validity of all licenses and registrations required in this Article shall be provided to Omnitrans' Contract Administrator within 3 days of NTP and annually thereafter.
3. Business Licenses – The Contractor and its Subcontractors are required to have Business Licenses in the City of San Bernardino.

**SP-17 ALLOWANCES**

Section Not Used

**SP-18 PRE-CONSTRUCTION SUBMITTALS**

Upon award of a contract, the following shall be submitted prior to or on the day of the pre-construction meeting for Omnitrans' review and comment. The Contractor's complete submittal, due after NTP, shall not substantially differ from the information provided in these documents submitted by the Contractor.

1. Project Schedule
2. Lump Sum Breakdown
3. Submittal Schedule

**SP-19 RETENTION AND ESCROW ACCOUNT**

Section Not Used

**SP-20 PERMITS**

- A. The Contractor must obtain required permits.
- B. The Contractor shall be responsible for all fees, businesses licenses needed for obtaining permits. Omnitrans' assistance in obtaining the permits does not relieve the Contractor from these requirements nor be responsible for delays. The Contractor shall obtain all the required permits, licenses authorizing the Contractor to perform said work for the agency. The Contractor is also required to verify with all local entities regarding the applicable permits.

**SP-21 ENVIRONMENTAL POLLUTION CONTROL PLAN**

Section Not Used

**SP-22 COOPERATION WITH CSUSB**

Cooperation and coordination must be maintained with CSUSB during the length of the project.

**SP-23 PROTECTION OF PROPERTY AND RESTORATION OF EXISTING IMPROVEMENTS**

The Contractor shall be responsible for the protection of CSUSB property, public and private property adjacent to the Work, and shall exercise due caution to avoid damage to such property.

The Contractor shall repair or replace existing improvements at CSUSB or within the right-of way or temporary construction easement which are not designated for removal (e.g. curbs, sidewalks driveways, fences, walls, signs, billboards, utility installations, pavement, structures, landscaping, irrigations and etc.) which are damaged or removed as a result of its operations. Repairs and replacements shall be at least equal to existing improvements and shall match them in finish and dimension.

The Contractor, during the progress of the Work, shall maintain existing or temporary street lightings. If any damage to existing or temporary street lighting occurs, the Contractor shall immediately notify CSUSB and Omnitrans Project Manager and arrange for immediate repair and restoration of service. The Contractor shall commence repairs or replacements as soon as possible and in no case later than 4 hours after damaging the system or receiving approval of the equipment and materials by the Project Manager, whichever takes longer. A licensed electrical contractor shall make all temporary and permanent repairs.

Trees, lawns, and shrubbery that are not to be removed shall be protected from damage or injury. If damaged or removed due to Contractor's operations, they shall be restored or replaced in as nearly the original condition and location as is reasonably possible. Lawns shall be reseeded and covered with suitable mulch.

All costs to the Contractor for protecting, removing, and restoring existing improvements shall be included in the Bid.

**SP-24 TRAFFIC AND ACCESS**

The Contractor's attention is directed to "Traffic Control" section of Technical Specifications.

Unless otherwise authorized in writing by CSUSB/Project Manager prior to start of Work, a through lane shall be maintained at all times unless written approval is given by CSUSB for a full closure in the work area, and an approved detour shall be provided by the Contractor at its own cost. The Contractor will not be entitled to damages, additional compensation, or time extension resulting from the need to phase construction.

Safe and adequate pedestrian and vehicular access shall be provided and maintained to: fire hydrants, sbX and parking lots, and establishment similar in nature. Access to these facilities shall be continuous and unobstructed unless otherwise authorized in writing by CSUSB/Project Manager prior to start of Work.

Grading operations, excavation, and fill construction shall be conducted by the Contractor in a manner to provide a reasonably satisfactory surface for traffic. When these activities are completed, the roadbed surface shall be brought to a smooth, even condition satisfactory for property access. If used, plating shall be bermed with asphalt or other material to eliminate movement. Plating shall be bedded to reduce noise under vehicle loading.

**SP-25 PROJECT STAKEHOLDERS (MOU)**

Section Not Used

**SP-26 CSUSB**

- A. Permits
  - Contractor will be required to obtain the required permit(s) based on the approved plans, including a city business license.
- B. Working Hours
  - 24 hours a day available as necessary for the completion of the work within the work window, subject to CSUSB approval.
- C. Working Days
  - Monday – Sunday
- D. Traffic Control
  - Work requiring full closure is subject to an approved detour with CSUSB approval.
- E. Holidays
  - Independence Day
- F. Inspections
  - In addition to Contractor's own inspection and testing, Omnitrans will perform geotechnical inspections as required

\*End Special Provisions\*

## ATTACHMENT F – PREVAILING WAGES

This project is funded under a financial assistance contract by the U.S. Department of Transportation and is subject to all conditions of the Davis-Bacon Act (40 U.S.C. 276a) and the Labor Code of the State of California commencing in Section 1770 et. seq. It is required that all mechanics and laborers employed or working at the site be paid not less than the current basic hourly rates of pay and fringe benefits. Wage schedules are attached or available on the internet at:

[www.dir.ca.gov/DLSR/statistics\\_research.html](http://www.dir.ca.gov/DLSR/statistics_research.html)

and

<https://www.wdol.gov/dba.aspx>

Bidders shall utilize the relevant prevailing wage determinations in effect on the first advertisement date of the Invitation for Bids. In the event there are any differences between the minimum wage rates as determined by the United States Secretary of Labor and those determined by the State of California, the highest rate **MUST BE PAID.**

GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS  
PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1770, 1773 AND 1773.1

FOR COMMERCIAL BUILDING, HIGHWAY, HEAVY CONSTRUCTION AND DREDGING PROJECTS

**CRAFT: # CEMENT MASON**

**DETERMINATION:** SC-23-203-2-2018-1

**ISSUE DATE:** August 22, 2018

**EXPIRATION DATE OF DETERMINATION:** June 30, 2019\*\* The rate to be paid for work performed after this date has been determined. If work will extend past this date, the new rate must be paid and should be incorporated in contracts entered into now. Contact the Office of the Director - Research Unit for specific rates at (415) 703-4774.

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

CLASSIFICATION (JOURNEYPERSON)	Basic Hourly Rate	Employer Payments					Straight-Time Total Hourly Rate	Overtime Hourly Rate			
		Health and Welfare	Pension	Vacation/ Holiday	Other Training Payments	Hours		Daily 1 1/2X	Saturday <sup>a</sup> 1 1/2X	Sunday/ Holiday 2X	
Cement Mason, Curb and Gutter Machine Operator; Clary and Similar Type of Screed Operator (Cement only); Grinding Machine Operator (all types); Jackson Vibratory, Texas Screed and Similar Type Screed Operator; Scoring Machine Operator	\$35.75	8.02	9.27	6.80 <sup>b</sup>	0.64	0.27	8	60.75	78.625 <sup>c</sup>	78.625 <sup>c</sup>	96.50
Magnesite, magnesite-terrazzo and mastic composition, Epoxy, Urethanes and exotic coatings, Dex-O-Tex	\$35.87	8.02	9.27	6.80 <sup>b</sup>	0.64	0.27	8	60.87	78.805 <sup>c</sup>	78.805 <sup>c</sup>	96.74
Floating and Troweling Machine Operator	\$36.00	8.02	9.27	6.80 <sup>b</sup>	0.64	0.27	8	61.00	79.00 <sup>c</sup>	79.00 <sup>c</sup>	97.00

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

<sup>a</sup> Saturday in the same work week may be worked at straight-time rate, up to 8 hours on Saturday or when the employee has worked a total of 40 hours in the work week, if it is not reasonably possible for any individual employee on a particular job site to complete 40 hours of work on a 8 hour day, Monday through Friday, due to inclement weather or similar act of God or a situation beyond the control of the contractor.

<sup>b</sup> Includes an amount for supplemental dues.

<sup>c</sup> Rate applies to the first 4 daily overtime hours and the first 12 hours worked on Saturday. All other time is paid at the double time (2X) rate.

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

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

DEPARTMENT OF INDUSTRIAL RELATIONS  
Office of the Director – Research Unit  
455 Golden Gate Avenue, 9<sup>th</sup> Floor  
San Francisco, CA 94102

ADDRESS REPLY TO:

San Francisco P.O. Box 420603  
CA 94142-0603



## PREDETERMINED INCREASE FOR

**CEMENT MASON**  
**(SC-23-203-2-2018-1)**

IN ALL LOCALITIES WITHIN IMPERIAL, INYO, KERN, LOS ANGELES,  
MONO, ORANGE, RIVERSIDE, SAN BERNARDINO,  
SAN LUIS OBISPO, SANTA BARBARA, AND VENTURA COUNTIES

This predetermined increase for the above named craft applies only to the current determination for work being performed on public works projects with bid advertisement dates on or after **September 1, 2018**, until this determination is superseded by a new determination or a predetermined increase modification notice becomes effective.

When referencing our prevailing wage determinations, please note that if the prevailing wage rate determination which was in effect on the bid advertisement date of a project has a single asterisk (\*) after the expiration date, the rate will be good for the life of the project. However, if a prevailing wage rate determination has double asterisks (\*\*) after the expiration date, the rate must be updated on the following date to reflect the predetermined rate change(s).

**Cement Mason**

Determination SC-23-203-2-2018-1 is currently in effect and expires on June 30, 2019\*\*.

**Effective on July 1, 2019**, there will be an increase of \$2.05 allocated as follows: \$0.15 to Pension, and \$1.90 to Wages and/or fringes.

**Effective on July 1, 2020**, there will be an increase of \$1.85 allocated as follows: \$0.15 to Pension, and \$1.70 to Wages and/or fringes.

There will be no further increases applicable to this determination.

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Issued 8/22/2018, Effective 9/1/2018.

This page will be updated when wage rate breakdown information becomes available.

**Last Updated:** September 1, 2018

GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS  
PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1770, 1773 AND 1773.1

FOR COMMERCIAL BUILDING, HIGHWAY, HEAVY CONSTRUCTION AND DREDGING PROJECTS

**CRAFT: #LABORER AND RELATED CLASSIFICATIONS**

**DETERMINATION:** SC-23-102-2-2018-1

**ISSUE DATE:** August 22, 2018

**EXPIRATION DATE OF DETERMINATION:** July 31, 2019\*\* The rate to be paid for work performed after this date has been determined. If work will extend past this date, the new rate must be paid and should be incorporated in contracts entered into now. Contact the Office of the Director – Research Unit for specific rates at (415) 703-4774.

**LOCALITY:** All localities within Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura counties.

Classification <sup>a</sup> (Journey person)	Basic Hourly Rate	Employer Payments					Straight-Time		Overtime Hourly Rates		
		Health and Welfare	Pension	Vacation/ and Holiday <sup>d</sup>	Training	Other Payment	Hours	Total Hourly Rate	Daily <sup>b</sup> 1 1/2X	Saturday <sup>bc</sup> 1 1/2X	Sunday and Holiday

**CLASSIFICATION GROUPS**

Group 1	\$34.24	7.32	8.03	4.84	0.69	0.61	8	55.73	72.850	72.850	89.97
Group 2	34.79	7.32	8.03	4.84	0.69	0.61	8	56.28	73.675	73.675	91.07
Group 3	35.34	7.32	8.03	4.84	0.69	0.61	8	56.83	74.500	74.500	92.17
Group 4	36.89	7.32	8.03	4.84	0.69	0.61	8	58.38	76.825	76.825	95.27
Group 5	37.24	7.32	8.03	4.84	0.69	0.61	8	58.73	77.350	77.350	95.97

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

<sup>a</sup> For classification within each group, see page 14.

<sup>b</sup> Any hours worked over 12 hours in a single workday are double (2) time.

<sup>c</sup> Saturdays in the same work week may be worked at straight-time if job is shut down during work week due to inclement weather or similar Act of God, or a situation beyond the employers control.

<sup>d</sup> Includes an amount per hour worked for supplemental dues

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

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

**CLASSIFICATION GROUPS**

**GROUP 1**

Boring Machine Helper (Outside)  
Certified Confined Space Laborer  
Cleaning and Handling of Panel Forms  
Concrete Screeding for Rough Strike-Off  
Concrete, Water Curing  
Demolition Laborer, the cleaning of brick if performed by an employee performing any other phase of demolition work, and the cleaning of lumber  
Fiberoptic Installation, Blowing, Splicing, and Testing Technician on public right-of-way only  
Fire Watcher, Limbers, Brush Loaders, Pilers and Debris Handlers  
Flagman  
Gas, Oil and/or Water Pipeline Laborer  
Laborer, Asphalt-Rubber Material Loader  
Laborer, General or Construction  
Laborer, General Cleaner  
Laborer, Jetting  
Laborer, Temporary Water and Air Lines  
Plugging, Filling of Shee-Bolt Holes; Dry Packing of Concrete and Patching  
Post Hole Digger (Manual)  
Railroad Maintenance, Repair Trackman and Road Beds; Streetcar and Railroad Construction Track Laborers  
Rigging and Signaling  
Scaler  
Slip Form Raisers  
Tarman and Mortar Man  
Tool Crib or Tool House Laborer  
Traffic Control by any method  
Water Well Driller Helper  
Window Cleaner  
Wire Mesh Pulling - All Concrete Pouring Operations

**GROUP 2**

Asphalt Shoveler  
Cement Dumper (on 1 yard or larger mixer and handling bulk cement)  
Cesspool Digger and Installer  
Chucktender  
Chute Man, pouring concrete, the handling of the chute from readymix trucks, such as walls, slabs, decks, floors, foundations, footings, curbs, gutters and sidewalks  
Concrete Curer-Impervious Membrane and Form Oiler  
Cutting Torch Operator (Demolition)  
Fine Grader, Highways and Street Paving, Airport, Runways, and similar type heavy construction  
Gas, Oil and/or Water Pipeline Wrapper-Pot Tender and Form Man  
Guinea Chaser  
Headerboard Man-Asphalt  
Installation of all Asphalt Overlay Fabric and Materials used for Reinforcing Asphalt  
Laborer, Packing Rod Steel and Pans  
Membrane Vapor Barrier Installer  
Power Broom Sweepers (small)  
Riprap, Stonepaver, placing stone or wet sacked concrete  
Roto Scraper and Tiller  
Sandblaster (Pot Tender)  
Septic Tank Digger and Installer (leadman)

**GROUP 2 (continued)**

Tank Scaler and Cleaner  
Tree Climber, Faller, Chain Saw Operator, Pittsburgh Chipper and similar type Brush Shredders  
Underground Laborer, including Caisson Bellow

**GROUP 3**

Asphalt Installation of all fabrics  
Buggymobile Man  
Compactor (all types including Tampers, Barko, Wacker)  
Concrete Cutting Torch  
Concrete Pile Cutter  
Driller, Jackhammer, 2 1/2 ft. drill steel or longer  
Dri Pak-it Machine  
Gas, Oil and/or Water Pipeline Wrapper - 6-inch pipe and over by any method, inside and out  
Impact Wrench, Multi-Plate  
Kettlemen, Potmen and Men applying asphalt, lay-kold, creosote, lime caustic and similar type materials  
Laborer, Fence Erector  
Material Hoseman (Walls, Slabs, Floors and Decks)  
Operators of Pneumatic, Gas, Electric Tools, Vibrating Machines, Pavement Breakers, Air Blasting, Come-Alongs, and similar mechanical tools not separately classified herein; operation of remote controlled robotic tools in connection with Laborers work  
Pipelayer's backup man, coating, grouting, making of joints, sealing, caulking, diapering and including rubber gasket joints, pointing and any and all other services  
Power Post Hole Digger  
Rock Slinger  
Rotary Scarifier or Multiple Head Concrete Chipping Scarifier  
Steel Headerboard Man and Guideline Setter  
Trenching Machine, Hand Propelled

**GROUP 4**

Any Worker Exposed to Raw Sewage  
Asphalt Raker, Luteman, Ironer, Asphalt Dumpman, and Asphalt Spreader Boxes (all types)  
Concrete Core Cutter (walls, floors or ceilings), Grinder or Sander  
Concrete Saw Man, Cutting Walls or Flat Work, Scoring old or new concrete  
Cribber, Shorer, Lagging, Sheeting and Trench Bracing, Hand-Guided Lagging Hammer  
Head Rock Slinger  
High Scaler (including drilling of same)  
Laborer, Asphalt-Rubber Distributor Bootman  
Laser Beam in connection with Laborer's work  
Oversize Concrete Vibrator Operator, 70 pounds and over  
Pipelayer  
Prefabricated Manhole Installer  
Sandblaster (Nozzleman), Water Blasting, Porta Shot-Blast  
Subsurface Imaging Laborer  
Traffic Lane Closure, certified

**GROUP 5**

Blasters Powderman  
Driller  
Toxic Waste Removal  
Welding, certified or otherwise in connection with Laborers' work

DEPARTMENT OF INDUSTRIAL RELATIONS  
Office of the Director - Research Unit  
455 Golden Gate Avenue, 9<sup>th</sup> Floor  
San Francisco, CA 94102

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San Francisco, CA 94142-0603



## PREDETERMINED INCREASES FOR

### **LABORER AND RELATED CLASSIFICATIONS (SC-23-102-2-2018-1)**

ALL LOCALITIES WITHIN IMPERIAL, INYO, KERN, LOS ANGELES, MONO,  
ORANGE, RIVERSIDE, SAN BERNARDINO, SAN LUIS OBISPO, SANTA  
BARBARA, AND VENTURA COUNTIES

These predetermined increases for the above named craft applies only to the current determination for work being performed on public works projects with bid advertisement dates on or after **September 1, 2018**, until this determination is superseded by a new determination or a predetermined increase modification notice becomes effective.

When referencing our prevailing wage determinations, please note that if the prevailing wage rate determination which was in effect on the bid advertisement date of a project has a single asterisk (\*) after the expiration date, the rate will be good for the life of the project. However, if a prevailing wage rate determination has double asterisks (\*\*) after the expiration date, the rate must be updated on the following date to reflect the predetermined rate change(s).

#### **LABORER**

Determination SC-23-102-2-2018-1 is currently in effect and expires on July 1, 2019\*\*.

**Effective July 1, 2019**, there will be an increase of \$2.05 to be allocated to wages and/or fringes.

**Effective July 1, 2020**, there will be an increase of \$2.10 to be allocated to wages and/or fringes.

**Effective July 1, 2021**, there will be an increase of \$2.15 to be allocated to wages and/or fringes.

There will be no further increases applicable to this determination.

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Issued 8/22/2018, Effective 9/1/2018 until superseded.

This page will be updated when wage rate breakdown becomes available.  
**Last Updated:** September 1, 2018.

GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS  
PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1770, 1773 AND 1773.1

FOR COMMERCIAL BUILDING, HIGHWAY, HEAVY CONSTRUCTION AND DREDGING PROJECTS

**CRAFT: #OPERATING ENGINEER**

**DETERMINATION:** SC-23-63-2-2018-1

**ISSUE DATE:** August 22, 2018

**EXPIRATION DATE OF DETERMINATION:** June 30, 2019\* Effective until superseded by a new determination issued by the Director of Industrial Relations. Contact the Office of the Director – Research Unit at (415) 703-4774 for the new rates after ten days after the expiration date if no subsequent determination is issued.

**LOCALITY:** All localities within Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura counties.

CLASSIFICATION (Journey person)	Basic Hourly Rate	Health and Welfare	Employer Payments				Straight – Time		Overtime Hourly Rate		
			Pension (e)	Vacation/ Holiday (a)	Training	Other Payments	Hours	Total Hourly Rate	Daily (c)	Saturday (d)	Sunday/ Holiday
									1 1/2X	1 1/2X	2X
Classification Groups (b)											
Group 1	\$45.30	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$72.34	\$94.990	\$94.990	\$117.64
Group 2	\$46.08	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$73.12	\$96.160	\$96.160	\$119.20
Group 3	\$46.37	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$73.41	\$96.595	\$96.595	\$119.78
Group 4	\$47.86	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$74.90	\$98.830	\$98.830	\$122.76
Group 6	\$48.08	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$75.12	\$99.160	\$99.160	\$123.20
Group 8	\$48.19	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$75.23	\$99.325	\$99.325	\$123.42
Group 10	\$48.31	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$75.35	\$99.505	\$99.505	\$123.66
Group 12	\$48.48	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$75.52	\$99.760	\$99.760	\$124.00
Group 13	\$48.58	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$75.62	\$99.910	\$99.910	\$124.20
Group 14	\$48.61	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$75.65	\$99.955	\$99.955	\$124.26
Group 15	\$48.69	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$75.73	\$100.075	\$100.075	\$124.42
Group 16	\$48.81	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$75.85	\$100.255	\$100.255	\$124.66
Group 17	\$48.98	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.02	\$100.510	\$100.510	\$125.00
Group 18	\$49.08	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.12	\$100.660	\$100.660	\$125.20
Group 19	\$49.19	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.23	\$100.825	\$100.825	\$125.42
Group 20	\$49.31	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.35	\$101.005	\$101.005	\$125.66
Group 21	\$49.48	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.52	\$101.260	\$101.260	\$126.00
Group 22	\$49.58	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.62	\$101.410	\$101.410	\$126.20
Group 23	\$49.69	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.73	\$101.575	\$101.575	\$126.42
Group 24	\$49.81	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.85	\$101.755	\$101.755	\$126.66
Group 25	\$49.98	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$77.02	\$102.010	\$102.010	\$127.00

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

<sup>a</sup> Includes an amount withheld for supplemental dues.

<sup>b</sup> For classifications within each group, see pages 8 and 9.

<sup>c</sup> Rate applies to the first 4 overtime hours. All other daily overtime is paid at the Sunday rate.

<sup>d</sup> Rate applies to the first 12 hours worked. All other time is paid at the Sunday rate.

<sup>e</sup> Includes an amount for Annuity

**NOTE:** For Special Shift and Multi-Shift, see pages 9A and 9B.

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

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

**DETERMINATION: SC-23-63-2-2018-1**

**CLASSIFICATIONS:**

**GROUP 1**

Bargeman  
Brakeman  
Compressor Operator  
Ditchwitch, with seat or similar type equipment  
Elevator Operator - Inside  
Engineer Oiler  
Forklift Operator (includes loed, lull or similar types – under 5 tons)  
Generator Operator  
Generator, Pump or Compressor Plant Operator  
Heavy Duty Repairman Helper  
Pump Operator  
Signalman  
Switchman

**GROUP 2**

Asphalt-Rubber Plant Operator (Nurse Tank Operator)  
Concrete Mixer Operator - Skip Type  
Conveyor Operator  
Fireman  
Forklift Operator (includes loed, lull or similar types – over 5 tons)  
Hydrostatic Pump Operator  
Oiler Crusher (Asphalt or Concrete Plant)  
Petromat Laydown Machine  
RJU Side Dump Jack  
Rotary Drill Helper (Oilfield)  
Screening and Conveyor Machine Operator (or similar types)  
Skiploader (Wheel type up to 3/4 yd. without attachment)  
Tar Pot Fireman  
Temporary Heating Plant Operator  
Trenching Machine Oiler

**GROUP 3**

Asphalt Rubber Blend Operator  
Steer, with all attachments)  
Equipment Greaser (rack)  
Ford Ferguson (with dragtype attachments)  
(ground)  
Stationary Pipe Wrapping and Cleaning Machine Operator

**GROUP 4**

Asphalt Plant Fireman  
Backhoe Operator (mini-max or similar type)  
Boring Machine Operator  
Boring System Electronic Tracking Locator  
Boxman or Mixerman (asphalt or concrete)  
Operator  
Concrete Cleaning Decontamination Machine Operator  
Concrete Pump Operator (small portable)  
Drilling Machine Operator, Small Auger types (Texoma Super Economat, or similar types - Hughes 100 or 200, or similar types - drilling depth of 30 maximum)  
Equipment Greaser (grease truck)  
Excavator Track/Rubber-Tired (Operating weight under 21,000 lbs)  
Guard Rail Post Driver Operator  
Highline Cableway Signalman  
Hydra-Hammer-Aero Stomper  
Hydraulic Casing Oscillator Operator – drilling depth of 30' maximum  
(above ground tunnel)  
Power Concrete Curing Machine Operator  
Power Concrete Saw Operator  
Power - Driver Jumbo Form Setter Operator  
Power Sweeper Operator  
Rock Wheel Saw/Trencher  
Roller Operator (compacting)  
Screed Operator (asphalt or concrete)  
Trenching Machine Operator (up to 6ft.)  
Vacuum or Muck Truck

**GROUP 5 (for multi-shift rate, see page 9B)**

Equipment Greaser (Grease Truck/Multi-Shift)

**GROUP 6**

Articulating Material Hauler  
Asphalt Plant Engineer  
Batch Plant Operator  
Bit Sharpener  
Concrete Joint Machine Operator (canal and similar type)  
Concrete Placer Operator  
Concrete Planer Operator  
Dandy Digger  
Deck Engine Operator  
Deck Engineer  
Derrickman (oilfield type)  
  
Drilling Machine Operator, Bucket or Auger types (Calweld 100 bucket or similar types - Watson 1000 auger or similar types - Texoma 330, 500 or 600 auger or similar types - drilling depth of 45' maximum)  
Drilling Machine Operator (including water wells)  
Force Feed Loader

Hydraulic Casing Oscillator Operator – drilling depth of 45' maximum  
Hydrographic Seeder Machine Operator (straw, pulp or seed)  
Jackson Track Maintainer, or similar type  
Kalamazoo Switch Tamper, or similar type  
Machine Tool Operator  
Maginnis Internal Full Slab Vibrator  
Mechanical Berm, Curb or Gutter (concrete or asphalt)  
Mechanical Finisher Operator (concrete, Clary-Johnson-Bidwell or similar)  
Micro Tunnel System Operator (below ground)  
Pavement Breaker Operator  
Railcar Mover  
Road Oil Mixing Machine Operator  
Roller Operator (asphalt or finish)  
Rubber-Tired Earthmoving Equipment (single engine, up to and including 25 yds. struck)  
Self-Propelled Tar Piplining Machine Operator  
Skiploader Operator (crawler and wheel type, over 3/4 yds. and up to and including 1 1/2 yds.)  
Slip Form Pump Operator (power driven hydraulic lifting device for concrete forms)  
Tractor Operator - Bulldozer, Tamper-Scraper (single engine, up to 100 H.P. flywheel and similar types, up to and including D-5 and similar types)  
Tugger Hoist Operator (1 drum)  
Ultra High Pressure Waterjet Cutting Tool System Operator  
Vacuum Blasting Machine Operator  
Volume Mixer Operator  
Welder – General

**GROUP 7 (for multi-shift rate, see page 9B)**

Welder – General (Multi-Shift)

**GROUP 8**

Asphalt or Concrete Spreading Operator (tamping or finishing)  
Asphalt Paving Machine Operator (barber greene or similar type, one (1) Screedman)  
Asphalt-Rubber Distributor Operator  
Backhoe Operator (up to and including 3/4 yds.) small ford, case or similar  
Backhoe Operator (over 3/4 yd. and up to 5 cu. yds. M.R.C.)  
Barrier Rail Mover (BTM Series 200 or similar types)  
Cast in Place Pipe Laying Machine Operator  
Cold Foamed Asphalt Recycler  
Combination Mixer and Compressor Operator (gunite work)  
Compactor Operator - Self Propelled  
Concrete Mixer Operator - Paving  
Crushing Plant Operator  
Drill Doctor  
Drilling Machine Operator, Bucket or Auger types (Calweld 150 bucket or similar types - Watson 1500, 2000, 2500 auger or similar types - Texoma 700, 800 auger or similar types - drilling depth of 60' maximum)  
Elevating Grader Operator  
Excavator Track/Rubber-Tired (Operating Weight 21,000 lbs - 100,000 lbs)  
Global Positioning System/GPS (or Technician)  
Grade Checker  
Gradall Operator  
Grouting Machine Operator  
Heavy Duty Repairman/Pump Installer  
Heavy Equipment Robotics Operator  
Hydraulic Casing Oscillator Operator – drilling depth of 60' maximum  
Hydraulic Operated Grout Plant (excludes hand loading)  
Kalamazoo Ballast Regulator or similar type  
Klemm Drill Operator or similar types  
Kolman Belt Loader and similar type  
Le Tourneau Blob Compactor or similar type  
Lo Drill  
Operator  
Master Environmental Maintenance Mechanic  
Mobark Chipper or similar types  
Ozzie Padder or similar types  
P.C. 490 Slot Saw  
Pneumatic Concrete Placing Machine Operator (Hackley-Presswell or similar type)  
Hydro-Ax  
Pumcrete Gun Operator  
Rock Drill or Similar Types (see Miscellaneous Provision #4 for additional information regarding this classification)  
Rotary Drill Operator (excluding caison type)  
Rubber-Tired Earth Moving Equipment Operator (single engine, caterpillar, euclid, atthey wagon, and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds. struck)  
Rubber-Tired Earth Moving Equipment Operator (multiple engine - up to and including 25 yds struck)  
Rubber-Tired Scraper Operator (self-loading paddle wheel type - John Deere, 1040 and similar single unit)  
Self-Propelled Curb and Gutter Machine Operator  
Shuttle Buggy  
Skiploader Operator (crawler and wheel type over 1 1/2 yds. up to and including 6 1/2 yds.)  
Soil Remediation Plant Operator (CMI, Envirotech or Similar)  
Soil Stabilizer and Reclaimer (WR-2400)  
Somero SXP Laser Screed  
Speed Swing Operator  
Surface Heaters and Planer Operator  
Tractor Compressor Drill Combination Operator

**DETERMINATION: SC-23-63-2-2018-1**

**GROUP 8 CONT.**

Tractor Operator (any type larger than D-5 - 100 flywheel H.P. and over, or similar – bulldozer, tamper, scraper and push tractor, single engine)

Tractor Operator (boom attachments)

Traveling Pipe Wrapping, Cleaning and Bending Machine Operator

Trenching Machine Operator (over 6 ft. depth capacity, manufacturer's rating)

Trenching Machine with Road Miner Attachment (over 6ft. depth capacity, manufacturer's rating - Oiler or Journeyman Trainee required)

Ultra High Pressure Waterjet Cutting Tool System Mechanic

Water Pull (compaction)

**GROUP 9 (for multi-shift rate, see page 9B)**

Heavy Duty Repairman (Multi-Shift)

**GROUP 10**

Backhoe Operator (over 5 cu. yds. M.R.C.)

Drilling Machine Operator, Bucket or Auger types (Calweld 200 B bucket or similar types - Watson 3000 or 5000 auger or similar types - Texoma 900 auger or similar types - drilling depth of 105' maximum)

Dual Drum Mixer

Dynamic Compactor LDC350 or similar types

Heavy Duty Repairman-Welder combination

Hydraulic Casing Oscillator Operator – drilling depth of 105' maximum

Monorail Locomotive Operator (diesel, gas or electric)

Motor Patrol - Blade Operator (single engine)

Multiple Engine Tractor Operator (euclid and similar type - except quad 9 cat.

Pneumatic Pipe Ramming Tool and similar types

Pre-stressed Wrapping Machine Operator (2 Operators required)

Rubber - Tired Earth Moving Equipment Operator (single engine, over 50 yds. struck)

Rubber - Tired Earth Moving Equipment Operator (multiple engine, euclid caterpillar and similar - over 25 yds. and up to 50 yds. struck)

Tower Crane Repairman

Tractor Loader Operator (crawler and wheel-type over 6 1/2 yds.

Welder - Certified

Woods Mixer Operator (and similar pugmill equipment)

**GROUP 11 (for multi-shift rate, see page 9B)**

Heavy Duty Repairman – Welder Combination (Multi-Shift

Welder – Certified (Multi-Shift)

**GROUP 12**

Auto Grader Operator

Automatic Slip Form Operator

Backhoe Operator (over 7 cu. yds. M.R.C.)

Drilling Machine Operator, Bucket or Auger types (Calweld, auger 200 CA or similar types - watson, auger 6000 or similar types - hughes super duty, auger 200 or similar types - drilling depth of 175' maximum)

Excavator Track/Rubber Tired (Operating Weight 100,000 lbs. - 200,000 lbs)

Hoe Ram or similar with compressor

Hydraulic Casing Oscillator Operator – drilling depth of 175' maximum

Mass Excavator Operator - less than 750 cu. yds.

Mechanical Finishing Machine Operator

Mobile Form Traveler Operator

Motor Patrol Operator (multi-engine)

Pipe Mobile Machine Operator

Moving Equipment

Rubber-Tired Self-Loading Scraper Operator (paddle-wheel-auger type self-loading - (two (2) or more units)

**GROUP 13**

Rubber-Tired Earth Moving Equipment Operator, Operating Equipment with the Push-Pull System (single engine, up to and including 25 yds. struck)

**GROUP 14**

Canal Liner Operator

Canal Trimmer Operator

Drilling Machine Operator, Bucket or Auger types (Calweld, auger 200 CA or similar types - watson, auger 6000 or similar types - hughes super duty, auger 200 or similar types - drilling depth of 300' maximum)

Remote Controlled Earth Moving Operator (\$1.00 per hour additional to base rate)

Wheel Excavator Operator (over 750 cu. yds. per hour)

**GROUP 15**

Rubber-Tired Earth Moving Equipment Operator, Operating Equipment with the Push-Pull System (single engine, caterpillar, euclid, atthey wagon, and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds. struck)

Rubber-Tired Earth Moving Equipment Operator, Operating Equipment with the Push-Pull System (multiple engine - up to and including 25 yds. struck)

**MISCELLANEOUS PROVISIONS:**

1. Operators on hoists with three drums shall receive fifteen cents (15¢) per hour additional pay to the regular rate of pay. The additional pay shall be added to the regular rate and become the base rate for the entire shift.
2. All heavy duty repairman and heavy duty combination shall receive fifty cents (50¢) per hour tool allowance in addition to their regular rate of pay and this shall become their base rate of pay.
3. Employees required to suit up and work in a hazardous material environment, shall receive Two Dollars (\$2.00) per hour in addition to their regular rate of pay, and that rate shall become the basic hourly rate of pay.
4. A review of rock drilling is currently pending. The minimum acceptable rate of pay for this classification or type of work on public works projects is Laborer and Related Classifications/Group 5 (Driller) as published on pages 13 and 14 of the Director's General Prevailing Wage Determinations. However, the published rate for the craft/classification of Operating Engineer/Group 8 (Rock Drill or Similar Types) may be used by contractors to perform rock drilling on public works projects.

**GROUP 16**

Excavator Track/Rubber Tired (Operating Weight exceeding 200,000 lbs.)

Rubber-Tired Earth Moving Equipment Operator, Operating Equipment with the Push-Pull System (single engine, over 50 yds. struck)

Rubber-Tired Earth Moving Equipment Operator, Operating Equipment with the Push-Pull System (multiple engine, euclid, caterpillar, and similar, over 25 yds. and up to 50 yds. struck)

**GROUP 17**

Rubber-Tired Earth Moving Equipment Operator, Operating Equipment with the Push-Pull System (multiple engine, euclid, caterpillar, and similar type, over 50 cu. yds. struck)

Tandem Tractor Operator (operating crawler type tractors in tandem - Quad 9 and similar type)

**GROUP 18**

Rubber-Tired Earth Moving Equipment Operator, Operating in Tandem (scrappers, belly dumps, and similar types in any combination, excluding compaction units - single engine, up to and including 25 yds. struck)

**GROUP 19**

Rotex Concrete Belt Operator

Rubber-Tired Earth Moving Equipment Operator, Operating in Tandem (scrappers, belly dumps, and similar types in any combination, excluding compaction units - single engine, caterpillar, euclid, atthey wagon, and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds. struck)

Rubber-Tired Earth Moving Equipment Operator, Operating in Tandem (scrappers, belly dumps, and similar types in any combination, excluding compaction units - multiple engines, up to and including 25 yds. struck)

**GROUP 20**

Rubber-Tired Earth Moving Equipment Operator, Operating in Tandem (scrappers, belly dumps, and similar types in any combination, excluding compaction units - single engine, over 50 yds. struck)

Rubber-Tired Earth Moving Equipment Operator, Operating in Tandem (scrappers, belly dumps, and similar types in any combination, excluding compaction units - multiple engine, euclid, caterpillar and similar, over 25 yds. and up to 50 yds. struck)

Drilling Machine Operator, Bucket or Auger types (Calweld, auger 200 CA or similar types -

**GROUP 21**

Rubber-Tired Earth Moving Equipment Operator, Operating in Tandem (scrappers, belly dumps, and similar types in any combination, excluding compaction units - multiple engine, euclid, caterpillar and similar type, over 50 cu. yds. struck)

**GROUP 22**

Rubber-Tired Earth Moving Equipment Operator, Operating Equipment with the Tandem Push-Pull System (single engine, up to and including 25 yds. struck)

**GROUP 23**

Rubber-Tired Earth Moving Equipment Operator, Operating Equipment with the Tandem Push-Pull System (single engine, caterpillar, euclid, atthey wagon, and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds. struck)

Rubber-Tired Earth Moving Equipment Operator, Operating Equipment with the Tandem Push-Pull System (multiple engine, up to and including 25 yds. struck)

**GROUP 24**

Rubber-Tired Earth Moving Equipment Operator, Operating Equipment with the Tandem Push-Pull System (single engine, over 50 yds. Struck)

Rubber-Tired Earth Moving Equipment Operator, Operating Equipment with the Tandem Push-Pull System (multiple engine, euclid, caterpillar and similar, over 25 yds. and up to 50 yds. struck)

**GROUP 25**

Concrete Pump Operator-Truck Mounted

Pedestal Concrete Pump Operator

Rubber-Tired Earth Moving Equipment Operator, Operating Equipment with the Tandem Push-Pull System (multiple engine, euclid, caterpillar and similar over 50 cu. yds struck)

GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS  
PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1770, 1773 AND 1773.1

FOR COMMERCIAL BUILDING, HIGHWAY, HEAVY CONSTRUCTION AND DREDGING PROJECTS

**CRAFT: #OPERATING ENGINEER (Special Shift)**

**DETERMINATION:** SC-23-63-2-2018-1

**ISSUE DATE:** August 22, 2018

**EXPIRATION DATE OF DETERMINATION:** June 30, 2019\* Effective until superseded by a new determination issued by the Director of Industrial Relations. Contact the Office of the Director – Research Unit at (415) 703-4774 for the new rates after ten days after the expiration date if no subsequent determination is issued.

**LOCALITY:** All localities within Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura counties.

CLASSIFICATION (Journey person)	Basic Hourly Rate	Employer Payments					Straight – Time		Overtime Hourly Rate		
		Health and Welfare	Pension (e)	Vacation/ Holiday (a)	Training	Other Payments	Hours	Total Hourly Rate	Daily (c)	Saturday (d)	Sunday/ Holiday
									1 1/2X	1 1/2X	2X
Classification Groups (b)											
Group 1	\$45.80	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$72.84	\$95.740	\$95.740	\$118.64
Group 2	\$46.58	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$73.62	\$96.910	\$96.910	\$120.20
Group 3	\$46.87	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$73.91	\$97.345	\$97.345	\$120.78
Group 4	\$48.36	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$75.40	\$99.580	\$99.580	\$123.76
Group 6	\$48.58	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$75.62	\$99.910	\$99.910	\$124.20
Group 8	\$48.69	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$75.73	\$100.075	\$100.075	\$124.42
Group 10	\$48.81	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$75.85	\$100.255	\$100.255	\$124.66
Group 12	\$48.98	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.02	\$100.510	\$100.510	\$125.00
Group 13	\$49.08	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.12	\$100.660	\$100.660	\$125.20
Group 14	\$49.11	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.15	\$100.705	\$100.705	\$125.26
Group 15	\$49.19	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.23	\$100.825	\$100.825	\$125.42
Group 16	\$49.31	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.35	\$101.005	\$101.005	\$125.66
Group 17	\$49.48	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.52	\$101.260	\$101.260	\$126.00
Group 18	\$49.58	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.62	\$101.410	\$101.410	\$126.20
Group 19	\$49.69	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.73	\$101.575	\$101.575	\$126.42
Group 20	\$49.81	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.85	\$101.755	\$101.755	\$126.66
Group 21	\$49.98	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$77.02	\$102.010	\$102.010	\$127.00
Group 22	\$50.08	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$77.12	\$102.160	\$102.160	\$127.20
Group 23	\$50.19	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$77.23	\$102.325	\$102.325	\$127.42
Group 24	\$50.31	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$77.35	\$102.505	\$102.505	\$127.66
Group 25	\$50.48	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$77.52	\$102.760	\$102.760	\$128.00

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

<sup>a</sup> Includes an amount withheld for supplemental dues.

<sup>b</sup> For classifications within each group, see pages 8 and 9.

<sup>c</sup> Rate applies to the first 4 overtime hours. All other daily overtime is paid at the Sunday rate.

<sup>d</sup> Rate applies to the first 12 hours worked. All other time is paid at the Sunday rate.

<sup>e</sup> Includes an amount for Annuity

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

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

GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS  
PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1770, 1773 AND 1773.1

FOR COMMERCIAL BUILDING, HIGHWAY, HEAVY CONSTRUCTION AND DREDGING PROJECTS

**CRAFT: #OPERATING ENGINEER (Multi-Shift)**

**DETERMINATION:** SC-23-63-2-2018-1

**ISSUE DATE:** August 22, 2018

**EXPIRATION DATE OF DETERMINATION:** June 30, 2019\* Effective until superseded by a new determination issued by the Director of Industrial Relations. Contact the Office of the Director – Research Unit at (415) 703-4774 for the new rates after ten days after the expiration date if no subsequent determination is issued.

**LOCALITY:** All localities within Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura counties.

CLASSIFICATION (Journey person)	Basic Hourly Rate	Employer Payments					Straight – Time		Overtime Hourly Rate		
		Health and Welfare	Pension (f)	Vacation/ Holiday (a)	Training	Other Payments	Hours (e)	Total Hourly Rate	Daily (c)	Saturday (d)	Sunday/ Holiday
									1 1/2X	1 1/2X	2X
Classification Groups (b)											
Group 1	\$46.30	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$73.34	\$96.490	\$96.490	\$119.64
Group 2	\$47.08	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$74.12	\$97.660	\$97.660	\$121.20
Group 3	\$47.37	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$74.41	\$98.095	\$98.095	\$121.78
Group 4	\$48.86	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$75.90	\$100.330	\$100.330	\$124.76
Group 5	\$48.96	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.00	\$100.480	\$100.480	\$124.96
Group 6	\$49.08	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.12	\$100.660	\$100.660	\$125.20
Group 7	\$49.18	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.22	\$100.810	\$100.810	\$125.40
Group 8	\$49.19	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.23	\$100.825	\$100.825	\$125.42
Group 9	\$49.29	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.33	\$100.975	\$100.975	\$125.62
Group 10	\$49.31	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.35	\$101.005	\$101.005	\$125.66
Group 11	\$49.41	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.45	\$101.155	\$101.155	\$125.86
Group 12	\$49.48	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.52	\$101.260	\$101.260	\$126.00
Group 13	\$49.58	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.62	\$101.410	\$101.410	\$126.20
Group 14	\$49.61	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.65	\$101.455	\$101.455	\$126.26
Group 15	\$49.69	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.73	\$101.575	\$101.575	\$126.42
Group 16	\$49.81	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$76.85	\$101.755	\$101.755	\$126.66
Group 17	\$49.98	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$77.02	\$102.010	\$102.010	\$127.00
Group 18	\$50.08	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$77.12	\$102.160	\$102.160	\$127.20
Group 19	\$50.19	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$77.23	\$102.325	\$102.325	\$127.42
Group 20	\$50.31	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$77.35	\$102.505	\$102.505	\$127.66
Group 21	\$50.48	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$77.52	\$102.760	\$102.760	\$128.00
Group 22	\$50.58	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$77.62	\$102.910	\$102.910	\$128.20
Group 23	\$50.69	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$77.73	\$103.075	\$103.075	\$128.42
Group 24	\$50.81	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$77.85	\$103.255	\$103.255	\$128.66
Group 25	\$50.98	\$11.45	\$10.65	\$3.55	\$1.00	\$0.39	8	\$78.02	\$103.510	\$103.510	\$129.00

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

<sup>a</sup> Includes an amount withheld for supplemental dues.

<sup>b</sup> For classifications within each group, see pages 8 and 9.

<sup>c</sup> Rate applies to the first 4 overtime hours. All other daily overtime is paid at the Sunday rate.

<sup>d</sup> Rate applies to the first 12 hours worked. All other time is paid at the Sunday rate.

<sup>e</sup> The Third Shift shall work 6.5 hours, exclusive of meal period, for which 8 hours straight-time shall be paid at the non-shift rate, Monday through Friday.

<sup>f</sup> Includes an amount for Annuity

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

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

GENERAL PREVAILING WAGE DETERMINATION MADE BY THE DIRECTOR OF INDUSTRIAL RELATIONS  
PURSUANT TO CALIFORNIA LABOR CODE PART 7, CHAPTER 1, ARTICLE 2, SECTIONS 1770, 1773 AND 1773.1

FOR COMMERCIAL BUILDING, HIGHWAY, HEAVY CONSTRUCTION AND DREDGING PROJECTS

**CRAFT: # PARKING AND HIGHWAY IMPROVEMENT  
(STRIPING, SLURRY AND SEAL COAT OPERATIONS-LABORER)**

**DETERMINATION:** SC-23-102-6-2018-1

**ISSUE DATE:** August 22, 2018

**EXPIRATION DATE OF DETERMINATION:** June 30, 2019\*\* The rate to be paid for work performed after this date has been determined. If work will extend past this date, the new rate must be paid and should be incorporated in contracts entered into now. Contact the Office of the Director – Research Unit for specific rates at (415) 703-4774.

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

Classification (Journey person)	Basic Hourly Rate	Employer Payments					Straight-Time		Overtime Hourly Rates		
		Health and Welfare	Pension	Vacation/ Holiday	Training	Other	Hours <sup>b</sup>	Total Hourly Rate	Daily 1 1/2X	6th & 7th Day <sup>c</sup> 1 1/2X	Holiday 2X

**CLASSIFICATION GROUPS**

Group 1	\$36.91	\$7.32	\$4.98	\$5.08 <sup>a</sup>	\$1.31	\$0.50	8	\$56.10	\$74.555	\$74.555	\$93.01
Group 2	38.21	7.32	4.98	5.08 <sup>a</sup>	1.31	0.50	8	57.40	76.505	76.505	95.61
Group 3	40.22	7.32	4.98	5.08 <sup>a</sup>	1.31	0.50	8	59.41	79.520	79.520	99.63
Group 4	41.96	7.32	4.98	5.08 <sup>a</sup>	1.31	0.50	8	61.15	82.130	82.130	103.11

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

<sup>a</sup> Includes an amount per hour worked for Supplemental Dues.

<sup>b</sup> Straight-time hours: 8 consecutive hours per day. 40 hours over 5 consecutive days, Monday through Sunday shall constitute a week's work at straight time.

<sup>c</sup> The sixth consecutive day in the same work week may be worked at straight-time if job is shut down during work week due to inclement weather.

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

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

**CLASSIFICATION GROUPS:**

**Group 1**

Protective coating, Pavement sealing (repairs and filling of cracks by any method to parking lots, game courts and playgrounds)  
Installation of carstops  
Traffic Control Person & Serviceman; including work of installing and protecting utility covers, traffic delineating devices, posting of no parking and notifications for public convenience  
Asphalt Repair  
Equipment Repair Technician

**Group 2**

Traffic Surface Abrasive Blaster  
Pot Tender  
Traffic Control Person/Certified Traffic Control Person  
Repairing and filling of cracks and surface cleaning on streets, highways, and airports by any means, and other work not directly connected with the application of slurry seal  
Slurry Seal Squeegeeman (finisher)

**Group 3**

Traffic Delineating Device Applicator  
Traffic Protective System Installer  
Pavement Marking Applicator  
Slurry Seal Applicator Operator (Line Driver)  
Shuttleman (loader/slurry machine operations) operation of all related machinery and equipment

**Group 4**

Traffic Striping Applicator  
Slurry Seal Mixer Operator  
Power Broom Sweeper (operation of all related machinery and equipment)

DEPARTMENT OF INDUSTRIAL RELATIONS  
Office of the Director - Research Unit  
455 Golden Gate Avenue, 9<sup>th</sup> Floor  
San Francisco, CA 94102

MAILING ADDRESS:  
P. O. Box 420603  
San Francisco, CA 94142-0603



**PREDETERMINED INCREASE FOR  
PARKING AND HIGHWAY IMPROVEMENT  
(STRIPING, SLURRY AND SEAL COAT OPERATIONS-LABORER)  
(SC-23-102-6-2018-1)**

IN ALL LOCALITIES WITHIN IMPERIAL, INYO, KERN, LOS ANGELES,  
MONO, ORANGE, RIVERSIDE, SAN BERNARDINO, SAN DIEGO,  
SAN LUIS OBISPO, SANTA BARBARA, AND VENTURA COUNTIES

This predetermined increase for the above named craft applies only to the current determination for work being performed on public works projects with bid advertisement dates on or after **September 1, 2018**, until this determination is superseded by a new determination or a predetermined increase modification notice becomes effective.

When referencing our prevailing wage determinations, please note that if the prevailing wage rate determination which was in effect on the bid advertisement date of a project has a single asterisk (\*) after the expiration date, the rate will be good for the life of the project. However, if a prevailing wage rate determination has double asterisks (\*\*) after the expiration date, the rate must be updated on the following date to reflect the predetermined rate change(s).

**PARKING AND HIGHWAY IMPROVEMENT (STRIPING, SLURRY AND SEAL COAT OPERATIONS-LABORER)**

Determination SC-23-102-6-2018-1 is currently in effect and expires on July 1, 2019\*\*.

**Effective July 1, 2019**, there will be an increase of \$2.05 to be allocated to wages and/or fringes.

**Effective July 1, 2020**, there will be an increase of \$2.10 to be allocated to wages and/or fringes.

**Effective July 1, 2021**, there will be an increase of \$2.15 to be allocated to wages and/or fringes.

There will be no further increases applicable to this determination.

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Issued 8/22/2018, Effective 9/1/2018 until superseded.

This page will be updated when wage rate breakdown becomes available.  
**Last Updated:** September 1, 2018.

General Decision Number: CA190026 02/15/2019 CA26

Superseded General Decision Number: CA20180037

State: California

Construction Types: Building, Heavy (Heavy and Dredging) and Highway

County: San Bernardino County in California.

BUILDING CONSTRUCTION PROJECTS; DREDGING PROJECTS (does not include hopper dredge work); HEAVY CONSTRUCTION PROJECTS (does not include water well drilling); HIGHWAY CONSTRUCTION PROJECTS

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.60 for calendar year 2019 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.60 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2019. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number	Publication Date
0	01/04/2019
1	02/01/2019
2	02/15/2019

ASBE0005-002 07/01/2018

Rates	Fringes
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Asbestos Workers/Insulator  
(Includes the application of

all insulating materials,  
 protective coverings,  
 coatings, and finishes to all  
 types of mechanical systems).....\$ 39.72      20.81  
 Fire Stop Technician  
 (Application of Firestopping  
 Materials for wall openings  
 and penetrations in walls,  
 floors, ceilings and curtain  
 walls).....\$ 27.92      18.31

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 ASBE0005-004 07/02/2018

Rates      Fringes

Asbestos Removal  
 worker/hazardous material  
 handler (Includes  
 preparation, wetting,  
 stripping, removal,  
 scrapping, vacuuming, bagging  
 and disposing of all  
 insulation materials from  
 mechanical systems, whether  
 they contain asbestos or not)....\$ 19.93      11.72

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 BOIL0092-003 03/01/2018

Rates      Fringes

BOILERMAKER.....\$ 44.07      33.52

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 \* BRCA0004-011 05/01/2018

Rates      Fringes

BRICKLAYER; MARBLE SETTER.....\$ 40.39      13.65

\*The wage scale for prevailing wage projects performed in  
 Blythe, China lake, Death Valley, Fort Irwin, Twenty-Nine  
 Palms, Needles and 1-15 corridor (Barstow to the Nevada  
 State Line) will be Three Dollars (\$3.00) above the  
 standard San Bernardino/Riverside County hourly wage rate

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 BRCA0018-004 07/01/2017

Rates      Fringes

MARBLE FINISHER.....\$ 30.93      12.95  
 TILE FINISHER.....\$ 25.98      11.23  
 TILE LAYER.....\$ 37.76      16.37

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 BRCA0018-010 09/01/2017

	Rates	Fringes
TERRAZZO FINISHER.....	\$ 29.75	12.91
TERRAZZO WORKER/SETTER.....	\$ 36.75	13.82

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 CARP0409-001 07/01/2018

	Rates	Fringes
CARPENTER		
(1) Carpenter, Cabinet Installer, Insulation Installer, Hardwood Floor Worker and acoustical installer.....	\$ 41.84	19.17
(2) Millwright.....	\$ 42.91	19.17
(3) Piledrivermen/Derrick Bargeman, Bridge or Dock Carpenter, Heavy Frammer, Rock Bargeman or Scowman, Rockslinger, Shingler (Commercial).....	\$ 42.54	19.17
(4) Pneumatic Nailer, Power Stapler.....	\$ 40.09	19.17
(5) Sawfiler.....	\$ 39.83	19.17
(6) Scaffold Builder.....	\$ 31.60	19.17
(7) Table Power Saw Operator.....	\$ 40.93	19.17

FOOTNOTE: Work of forming in the construction of open cut  
sewers or storm drains, on operations in which horizontal  
lagging is used in conjunction with steel H-Beams driven or  
placed in pre- drilled holes, for that portion of a lagged  
trench against which concrete is poured, namely, as a  
substitute for back forms (which work is performed by  
piledrivers): \$0.13 per hour additional.

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 CARP0409-002 07/01/2016

	Rates	Fringes
Diver		
(1) Wet.....	\$ 712.48	17.03
(2) Standby.....	\$ 356.24	17.03
(3) Tender.....	\$ 348.24	17.03
(4) Assistant Tender.....	\$ 324.24	17.03

Amounts in "Rates' column are per day

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 CARP0409-005 07/01/2015

Rates	Fringes
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Drywall  
 DRYWALL INSTALLER/LATHER....\$ 37.35      11.08  
 STOCKER/SCRAPPER.....\$ 10.00      7.17

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 CARP0409-008 08/01/2010

Rates      Fringes

Modular Furniture Installer.....\$ 17.00      7.41

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 ELEC0440-004 12/31/2018

COMMUNICATIONS AND SYSTEMS WORK

Rates      Fringes

Communications System  
 Installer.....\$ 33.09      15.89  
 Technician.....\$ 33.09      15.89

SCOPE OF WORK:

Installation, testing, service and maintenance of systems utilizing the transmission and/or transference of voice, sound, vision and digital for commercial, educational, security and entertainment purposes for the following: TV monitoring and surveillance, background-foreground music, intercom and telephone interconnect, inventory control systems, microwave transmission, multi-media, multiplex, nurse call systems, radio page, school intercom and sound, burglar alarms, fire alarms, and low voltage master clock systems in commercial buildings. Communication Systems that transmit or receive information and/or control systems that are intrinsic to the above listed systems; inclusion or exclusion of terminations and testings of conductors determined by their function; excluding all other data systems or multiple systems which include control function or power supply; excluding installation of raceway systems, conduit systems, line voltage work, and energy management systems. Does not cover work performed at China Lake Naval Ordnance Test Station.

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 ELEC0477-002 06/01/2018

Rates      Fringes

Electricians:.....\$ 38.29      3%+24.24

CABLE SPLICER: \$1.50 per hour above Electrician rate.

TUNNEL WORK: 10% above Electrician rate.

ZONE PAY:

Zone A - 80 road miles from Post Office, 455 Orange Show

Lane, San Bernardino, will be a free zone for all contractors

Zone B - Any work performed outside Zone A's 80 road miles, shall add \$12.00 per hour to the current wage scale.

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\* ELEC1245-001 01/01/2019

	Rates	Fringes
LINE CONSTRUCTION		
(1) Lineman; Cable splicer..	\$ 56.79	17.41
(2) Equipment specialist (operates crawler tractors, commercial motor vehicles, backhoes, trenchers, cranes (50 tons and below), overhead & underground distribution line equipment).....	\$ 45.36	16.24
(3) Groundman.....	\$ 34.68	15.86
(4) Powderman.....	\$ 49.55	3%+17.65

HOLIDAYS: New Year's Day, M.L. King Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day and day after Thanksgiving, Christmas Day

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ELEV0018-001 01/01/2019

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 55.58	34.125

FOOTNOTE:

PAID VACATION: Employer contributes 8% of regular hourly rate as vacation pay credit for employees with more than 5 years of service, and 6% for 6 months to 5 years of service.

PAID HOLIDAYS: New Years Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Friday after Thanksgiving, and Christmas Day.

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ENGI0012-003 07/01/2018

	Rates	Fringes
OPERATOR: Power Equipment (All Other Work)		
GROUP 1.....	\$ 45.30	25.25
GROUP 2.....	\$ 46.08	25.25
GROUP 3.....	\$ 46.37	25.25
GROUP 4.....	\$ 47.86	25.25
GROUP 5.....	\$ 48.96	25.25

GROUP 6.....	\$ 48.08	25.25
GROUP 8.....	\$ 48.19	25.25
GROUP 9.....	\$ 49.29	25.25
GROUP 10.....	\$ 48.31	25.25
GROUP 11.....	\$ 49.41	25.25
GROUP 12.....	\$ 48.48	25.25
GROUP 13.....	\$ 48.58	25.25
GROUP 14.....	\$ 48.61	25.25
GROUP 15.....	\$ 48.69	25.25
GROUP 16.....	\$ 48.81	25.25
GROUP 17.....	\$ 48.98	25.25
GROUP 18.....	\$ 49.08	25.25
GROUP 19.....	\$ 49.19	25.25
GROUP 20.....	\$ 49.31	25.25
GROUP 21.....	\$ 49.48	25.25
GROUP 22.....	\$ 49.58	25.25
GROUP 23.....	\$ 49.69	25.25
GROUP 24.....	\$ 49.81	25.25
GROUP 25.....	\$ 49.98	25.25

OPERATOR: Power Equipment  
(Cranes, Piledriving &  
Hoisting)

GROUP 1.....	\$ 46.65	25.25
GROUP 2.....	\$ 47.43	25.25
GROUP 3.....	\$ 47.72	25.25
GROUP 4.....	\$ 47.86	25.25
GROUP 5.....	\$ 48.08	25.25
GROUP 6.....	\$ 48.19	25.25
GROUP 7.....	\$ 48.31	25.25
GROUP 8.....	\$ 48.48	25.25
GROUP 9.....	\$ 48.65	25.25
GROUP 10.....	\$ 49.65	25.25
GROUP 11.....	\$ 50.65	25.25
GROUP 12.....	\$ 51.65	25.25
GROUP 13.....	\$ 52.65	25.25

OPERATOR: Power Equipment  
(Tunnel Work)

GROUP 1.....	\$ 47.15	25.25
GROUP 2.....	\$ 47.93	25.25
GROUP 3.....	\$ 48.22	25.25
GROUP 4.....	\$ 48.39	25.25
GROUP 5.....	\$ 48.58	25.25
GROUP 6.....	\$ 48.69	25.25
GROUP 7.....	\$ 48.81	25.25

PREMIUM PAY:

\$3.75 per hour shall be paid on all Power Equipment Operator work on the following Military Bases: China Lake Naval Reserve, Vandenberg AFB, Point Arguello, Seely Naval Base, Fort Irwin, Nebo Annex Marine Base, Marine Corp Logistics Base Yermo, Edwards AFB, 29 Palms Marine Base and Camp Pendleton

Workers required to suit up and work in a hazardous material

environment: \$2.00 per hour additional. Combination mixer and compressor operator on gunite work shall be classified as a concrete mobile mixer operator.

## SEE ZONE DEFINITIONS AFTER CLASSIFICATIONS

### POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Bargeman; Brakeman; Compressor operator; Ditch Witch, with seat or similar type equipment; Elevator operator-inside; Engineer Oiler; Forklift operator (includes loed, lull or similar types under 5 tons; Generator operator; Generator, pump or compressor plant operator; Pump operator; Signalman; Switchman

GROUP 2: Asphalt-rubber plant operator (nurse tank operator); Concrete mixer operator-skip type; Conveyor operator; Fireman; Forklift operator (includes loed, lull or similar types over 5 tons; Hydrostatic pump operator; oiler crusher (asphalt or concrete plant); Petromat laydown machine; PJU side dum jack; Screening and conveyor machine operator (or similar types); Skiploader (wheel type up to 3/4 yd. without attachment); Tar pot fireman; Temporary heating plant operator; Trenching machine oiler

GROUP 3: Asphalt-rubber blend operator; Bobcat or similar type (Skid steer); Equipment greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter radioman (ground); Stationary pipe wrapping and cleaning machine operator

GROUP 4: Asphalt plant fireman; Backhoe operator (mini-max or similar type); Boring machine operator; Boxman or mixerman (asphalt or concrete); Chip spreading machine operator; Concrete cleaning decontamination machine operator; Concrete Pump Operator (small portable); Drilling machine operator, small auger types (Texoma super economatic or similar types - Hughes 100 or 200 or similar types - drilling depth of 30' maximum); Equipment greaser (grease truck); Guard rail post driver operator; Highline cableway signalman; Hydra-hammer-aero stomper; Micro Tunneling (above ground tunnel); Power concrete curing machine operator; Power concrete saw operator; Power-driven jumbo form setter operator; Power sweeper operator; Rock Wheel Saw/Trencher; Roller operator (compacting); Screed operator (asphalt or concrete); Trenching machine operator (up to 6 ft.); Vacuum or much truck

GROUP 5: Equipment Greaser (Grease Truck/Multi Shift).

GROUP 6: Articulating material hauler; Asphalt plant engineer; Batch plant operator; Bit sharpener; Concrete joint machine operator (canal and similar type); Concrete planer operator; Dandy digger; Deck engine operator; Derrickman (oilfield type); Drilling machine operator,

bucket or auger types (Calweld 100 bucket or similar types - Watson 1000 auger or similar types - Texoma 330, 500 or 600 auger or similar types - drilling depth of 45' maximum); Drilling machine operator; Hydrographic seeder machine operator (straw, pulp or seed), Jackson track maintainer, or similar type; Kalamazoo Switch tamper, or similar type; Machine tool operator; Maginnis internal full slab vibrator, Mechanical berm, curb or gutter (concrete or asphalt); Mechanical finisher operator (concrete, Clary-Johnson-Bidwell or similar); Micro tunnel system (below ground); Pavement breaker operator (truck mounted); Road oil mixing machine operator; Roller operator (asphalt or finish), rubber-tired earth moving equipment (single engine, up to and including 25 yds. struck); Self-propelled tar pipelining machine operator; Skiploader operator (crawler and wheel type, over 3/4 yd. and up to and including 1-1/2 yds.); Slip form pump operator (power driven hydraulic lifting device for concrete forms); Tractor operator-bulldozer, tamper-scraper (single engine, up to 100 h.p. flywheel and similar types, up to and including D-5 and similar types); Tugger hoist operator (1 drum); Ultra high pressure waterjet cutting tool system operator; Vacuum blasting machine operator

GROUP 8: Asphalt or concrete spreading operator (tamping or finishing); Asphalt paving machine operator (Barber Greene or similar type); Asphalt-rubber distribution operator; Backhoe operator (up to and including 3/4 yd.), small ford, Case or similar; Cast-in-place pipe laying machine operator; Combination mixer and compressor operator (guniting work); Compactor operator (self-propelled); Concrete mixer operator (paving); Crushing plant operator; Drill Doctor; Drilling machine operator, Bucket or auger types (Calweld 150 bucket or similar types - Watson 1500, 2000 2500 auger or similar types - Texoma 700, 800 auger or similar types - drilling depth of 60' maximum); Elevating grader operator; Grade checker; Gradall operator; Grouting machine operator; Heavy-duty repairman; Heavy equipment robotics operator; Kalamazoo balliste regulator or similar type; Kolman belt loader and similar type; Le Tourneau blob compactor or similar type; Loader operator (Athey, Euclid, Sierra and similar types); Mobark Chipper or similar; Ozzie padder or similar types; P.C. slot saw; Pneumatic concrete placing machine operator (Hackley-Presswell or similar type); Pumpcrete gun operator; Rock Drill or similar types; Rotary drill operator (excluding caisson type); Rubber-tired earth-moving equipment operator (single engine, caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. up to and including 50 cu. yds. struck); Rubber-tired earth-moving equipment operator (multiple engine up to and including 25 yds. struck); Rubber-tired scraper operator (self-loading paddle wheel type-John Deere, 1040 and similar single unit); Self-propelled curb and gutter machine operator; Shuttle buggy;

Skiploader operator (crawler and wheel type over 1-1/2 yds. up to and including 6-1/2 yds.); Soil remediation plant operator; Surface heaters and planer operator; Tractor compressor drill combination operator; Tractor operator (any type larger than D-5 - 100 flywheel h.p. and over, or similar-bulldozer, tamper, scraper and push tractor single engine); Tractor operator (boom attachments), Traveling pipe wrapping, cleaning and bending machine operator; Trenching machine operator (over 6 ft. depth capacity, manufacturer's rating); trenching Machine with Road Miner attachment (over 6 ft depth capacity); Ultra high pressure waterjet cutting tool system mechanic; Water pull (compaction) operator

#### GROUP 9: Heavy Duty Repairman

GROUP 10: Drilling machine operator, Bucket or auger types (Calweld 200 B bucket or similar types-Watson 3000 or 5000 auger or similar types-Texoma 900 auger or similar types-drilling depth of 105' maximum); Dual drum mixer, dynamic compactor LDC350 (or similar types); Monorail locomotive operator (diesel, gas or electric); Motor patrol-blade operator (single engine); Multiple engine tractor operator (Euclid and similar type-except Quad 9 cat.); Rubber-tired earth-moving equipment operator (single engine, over 50 yds. struck); Pneumatic pipe ramming tool and similar types; Prestressed wrapping machine operator; Rubber-tired earth-moving equipment operator (single engine, over 50 yds. struck); Rubber tired earth moving equipment operator (multiple engine, Euclid, caterpillar and similar over 25 yds. and up to 50 yds. struck), Tower crane repairman; Tractor loader operator (crawler and wheel type over 6-1/2 yds.); Woods mixer operator (and similar Pugmill equipment)

GROUP 11: Heavy Duty Repairman - Welder Combination, Welder - Certified.

GROUP 12: Auto grader operator; Automatic slip form operator; Drilling machine operator, bucket or auger types (Calweld, auger 200 CA or similar types - Watson, auger 6000 or similar types - Hughes Super Duty, auger 200 or similar types - drilling depth of 175' maximum); Hoe ram or similar with compressor; Mass excavator operator less than 750 cu. yards; Mechanical finishing machine operator; Mobile form traveler operator; Motor patrol operator (multi-engine); Pipe mobile machine operator; Rubber-tired earth-moving equipment operator (multiple engine, Euclid, Caterpillar and similar type, over 50 cu. yds. struck); Rubber-tired self-loading scraper operator (paddle-wheel-auger type self-loading - two (2) or more units)

GROUP 13: Rubber-tired earth-moving equipment operator operating equipment with push-pull system (single engine,

up to and including 25 yds. struck)

GROUP 14: Canal liner operator; Canal trimmer operator; Remote-control earth-moving equipment operator (operating a second piece of equipment: \$1.00 per hour additional); Wheel excavator operator (over 750 cu. yds.)

GROUP 15: Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (single engine, Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 yds. struck); Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (multiple engine-up to and including 25 yds. struck)

GROUP 16: Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (single engine, over 50 yds. struck); Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (multiple engine, Euclid, Caterpillar and similar, over 25 yds. and up to 50 yds. struck)

GROUP 17: Rubber-tired earth-moving equipment operator, operating equipment with push-pull system (multiple engine, Euclid, Caterpillar and similar, over 50 cu. yds. struck); Tandem tractor operator (operating crawler type tractors in tandem - Quad 9 and similar type)

GROUP 18: Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - single engine, up to and including 25 yds. struck)

GROUP 19: Rotex concrete belt operator (or similar types); Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - single engine, Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds. struck); Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - multiple engine, up to and including 25 yds. struck)

GROUP 20: Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - single engine, over 50 yds. struck); Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps, and similar types in any combination, excluding compaction units - multiple engine, Euclid, Caterpillar and similar, over 25 yds. and up to 50 yds. struck)

GROUP 21: Rubber-tired earth-moving equipment operator, operating in tandem (scrapers, belly dumps and similar types in any combination, excluding compaction units - multiple engine, Euclid, Caterpillar and similar type, over 50 cu. yds. struck)

GROUP 22: Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (single engine, up to and including 25 yds. struck)

GROUP 23: Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (single engine, Caterpillar, Euclid, Athey Wagon and similar types with any and all attachments over 25 yds. and up to and including 50 yds. struck); Rubber-tired earth-moving equipment operator, operating with the tandem push-pull system (multiple engine, up to and including 25 yds. struck)

GROUP 24: Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (single engine, over 50 yds. struck); Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (multiple engine, Euclid, Caterpillar and similar, over 25 yds. and up to 50 yds. struck)

GROUP 25: Concrete pump operator-truck mounted; Rubber-tired earth-moving equipment operator, operating equipment with the tandem push-pull system (multiple engine, Euclid, Caterpillar and similar type, over 50 cu. yds. struck)

## CRANES, PILEDIVING AND HOISTING EQUIPMENT CLASSIFICATIONS

GROUP 1: Engineer oiler; Fork lift operator (includes loed, lull or similar types)

GROUP 2: Truck crane oiler

GROUP 3: A-frame or winch truck operator; Ross carrier operator (jobsite)

GROUP 4: Bridge-type unloader and turntable operator; Helicopter hoist operator

GROUP 5: Hydraulic boom truck; Stinger crane (Austin-Western or similar type); Tugger hoist operator (1 drum)

GROUP 6: Bridge crane operator; Cretor crane operator; Hoist operator (Chicago boom and similar type); Lift mobile operator; Lift slab machine operator (Vagtborg and similar types); Material hoist and/or manlift operator; Polar gantry crane operator; Self Climbing scaffold (or similar type); Shovel, backhoe, dragline, clamshell operator (over

3/4 yd. and up to 5 cu. yds. mrc); Tugger hoist operator

GROUP 7: Pedestal crane operator; Shovel, backhoe, dragline, clamshell operator (over 5 cu. yds. mrc); Tower crane repair; Tugger hoist operator (3 drum)

GROUP 8: Crane operator (up to and including 25 ton capacity); Crawler transporter operator; Derrick barge operator (up to and including 25 ton capacity); Hoist operator, stiff legs, Guy derrick or similar type (up to and including 25 ton capacity); Shovel, backhoe, dragline, clamshell operator (over 7 cu. yds., M.R.C.)

GROUP 9: Crane operator (over 25 tons and up to and including 50 tons mrc); Derrick barge operator (over 25 tons up to and including 50 tons mrc); Highline cableway operator; Hoist operator, stiff legs, Guy derrick or similar type (over 25 tons up to and including 50 tons mrc); K-crane operator; Polar crane operator; Self erecting tower crane operator maximum lifting capacity ten tons

GROUP 10: Crane operator (over 50 tons and up to and including 100 tons mrc); Derrick barge operator (over 50 tons up to and including 100 tons mrc); Hoist operator, stiff legs, Guy derrick or similar type (over 50 tons up to and including 100 tons mrc), Mobile tower crane operator (over 50 tons, up to and including 100 tons M.R.C.); Tower crane operator and tower gantry

GROUP 11: Crane operator (over 100 tons and up to and including 200 tons mrc); Derrick barge operator (over 100 tons up to and including 200 tons mrc); Hoist operator, stiff legs, Guy derrick or similar type (over 100 tons up to and including 200 tons mrc); Mobile tower crane operator (over 100 tons up to and including 200 tons mrc)

GROUP 12: Crane operator (over 200 tons up to and including 300 tons mrc); Derrick barge operator (over 200 tons up to and including 300 tons mrc); Hoist operator, stiff legs, Guy derrick or similar type (over 200 tons, up to and including 300 tons mrc); Mobile tower crane operator (over 200 tons, up to and including 300 tons mrc)

GROUP 13: Crane operator (over 300 tons); Derrick barge operator (over 300 tons); Helicopter pilot; Hoist operator, stiff legs, Guy derrick or similar type (over 300 tons); Mobile tower crane operator (over 300 tons)

## TUNNEL CLASSIFICATIONS

GROUP 1: Skiploader (wheel type up to 3/4 yd. without attachment)

GROUP 2: Power-driven jumbo form setter operator

GROUP 3: Dinkey locomotive or motorperson (up to and including 10 tons)

GROUP 4: Bit sharpener; Equipment greaser (grease truck); Slip form pump operator (power-driven hydraulic lifting device for concrete forms); Tugger hoist operator (1 drum); Tunnel locomotive operator (over 10 and up to and including 30 tons)

GROUP 5: Backhoe operator (up to and including 3/4 yd.); Small Ford, Case or similar; Drill doctor; Grouting machine operator; Heading shield operator; Heavy-duty repairperson; Loader operator (Athey, Euclid, Sierra and similar types); Mucking machine operator (1/4 yd., rubber-tired, rail or track type); Pneumatic concrete placing machine operator (Hackley-Presswell or similar type); Pneumatic heading shield (tunnel); Pumpcrete gun operator; Tractor compressor drill combination operator; Tugger hoist operator (2 drum); Tunnel locomotive operator (over 30 tons)

GROUP 6: Heavy Duty Repairman

GROUP 7: Tunnel mole boring machine operator

#### ENGINEERS ZONES

\$1.00 additional per hour for all of IMPERIAL County and the portions of KERN, RIVERSIDE & SAN BERNARDINO Counties as defined below:

That area within the following Boundary: Begin in San Bernardino County, approximately 3 miles NE of the intersection of I-15 and the California State line at that point which is the NW corner of Section 1, T17N,m R14E, San Bernardino Meridian. Continue W in a straight line to that point which is the SW corner of the northwest quarter of Section 6, T27S, R42E, Mt. Diablo Meridian. Continue North to the intersection with the Inyo County Boundary at that point which is the NE corner of the western half of the northern quarter of Section 6, T25S, R42E, MDM. Continue W along the Inyo and San Bernardino County boundary until the intersection with Kern County, as that point which is the SE corner of Section 34, T24S, R40E, MDM. Continue W along the Inyo and Kern County boundary until the intersection with Tulare County, at that point which is the SW corner of the SE quarter of Section 32, T24S, R37E, MDM. Continue W along the Kern and Tulare County boundary, until that point which is the NW corner of T25S, R32E, MDM. Continue S following R32E lines to the NW corner of T31S, R32E, MDM. Continue W to the NW corner of T31S, R31E, MDM. Continue S to the SW corner of T32S, R31E, MDM. Continue W to SW corner of SE quarter of Section 34, T32S, R30E, MDM. Continue S to SW corner of T11N, R17W, SBM. Continue E along south boundary of T11N, SBM to SW corner of T11N, R7W, SBM.

Continue S to SW corner of T9N, R7W, SBM. Continue E along south boundary of T9N, SBM to SW corner of T9N, R1E, SBM. Continue S along west boundary of R1E, SMB to Riverside County line at the SW corner of T1S, R1E, SBM. Continue E along south boundary of T1s, SBM (Riverside County Line) to SW corner of T1S, R10E, SBM. Continue S along west boundary of R10E, SBM to Imperial County line at the SW corner of T8S, R10E, SBM. Continue W along Imperial and Riverside county line to NW corner of T9S, R9E, SBM. Continue S along the boundary between Imperial and San Diego Counties, along the west edge of R9E, SBM to the south boundary of Imperial County/California state line. Follow the California state line west to Arizona state line, then north to Nevada state line, then continuing NW back to start at the point which is the NW corner of Section 1, T17N, R14E, SBM

\$1.00 additional per hour for portions of SAN LUIS OBISPO, KERN, SANTA BARBARA & VENTURA as defined below:

That area within the following Boundary: Begin approximately 5 miles north of the community of Cholame, on the Monterey County and San Luis Obispo County boundary at the NW corner of T25S, R16E, Mt. Diablo Meridian. Continue south along the west side of R16E to the SW corner of T30S, R16E, MDM. Continue E to SW corner of T30S, R17E, MDM. Continue S to SW corner of T31S, R17E, MDM. Continue E to SW corner of T31S, R18E, MDM. Continue S along West side of R18E, MDM as it crosses into San Bernardino Meridian numbering area and becomes R30W. Follow the west side of R30W, SBM to the SW corner of T9N, R30W, SBM. Continue E along the south edge of T9N, SBM to the Santa Barbara County and Ventura County boundary at that point which is the SW corner of Section 34. T9N, R24W, SBM, continue S along the Ventura County line to that point which is the SW corner of the SE quarter of Section 32, T7N, R24W, SBM. Continue E along the south edge of T7N, SBM to the SE corner to T7N, R21W, SBM. Continue N along East side of R21W, SBM to Ventura County and Kern County boundary at the NE corner of T8N, R21W. Continue W along the Ventura County and Kern County boundary to the SE corner of T9N, R21W. Continue North along the East edge of R21W, SBM to the NE corner of T12N, R21W, SBM. Continue West along the north edge of T12N, SBM to the SE corner of T32S, R21E, MDM. [T12N SBM is a think strip between T11N SBM and T32S MDM]. Continue North along the East side of R21E, MDM to the Kings County and Kern County border at the NE corner of T25S, R21E, MDM, continue West along the Kings County and Kern County Boundary until the intersection of San Luis Obispo County. Continue west along the Kings County and San Luis Obispo County boundary until the intersection with Monterey County. Continue West along the Monterey County and San Luis Obispo County boundary to the beginning point at the NW corner of T25S, R16E, MDM.

\$2.00 additional per hour for INYO and MONO Counties and the

Northern portion of SAN BERNARDINO County as defined below:

That area within the following Boundary: Begin at the intersection of the northern boundary of Mono County and the California state line at the point which is the center of Section 17, T10N, R22E, Mt. Diablo Meridian. Continue S then SE along the entire western boundary of Mono County, until it reaches Inyo County at the point which is the NE corner of the Western half of the NW quarter of Section 2, T8S, R29E, MDM. Continue SSE along the entire western boundary of Inyo County, until the intersection with Kern County at the point which is the SW corner of the SE 1/4 of Section 32, T24S, R37E, MDM. Continue E along the Inyo and Kern County boundary until the intersection with San Bernardino County at that point which is the SE corner of section 34, T24S, R40E, MDM. Continue E along the Inyo and San Bernardino County boundary until the point which is the NE corner of the Western half of the NW quarter of Section 6, T25S, R42E, MDM. Continue S to that point which is the SW corner of the NW quarter of Section 6, T27S, R42E, MDM. Continue E in a straight line to the California and Nevada state border at the point which is the NW corner of Section 1, T17N, R14E, San Bernardino Meridian. Then continue NW along the state line to the starting point, which is the center of Section 18, T10N, R22E, MDM.

REMAINING AREA NOT DEFINED ABOVE RECIEVES BASE RATE

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 ENGI0012-004 08/01/2015

	Rates	Fringes
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OPERATOR: Power Equipment  
 (DREDGING)

(1) Leverman.....	\$ 49.50	23.60
(2) Dredge dozer.....	\$ 43.53	23.60
(3) Deckmate.....	\$ 43.42	23.60
(4) Winch operator (stern winch on dredge).....	\$ 42.87	23.60
(5) Fireman-Oiler, Deckhand, Bargeman, Leveehand.....	\$ 42.33	23.60
(6) Barge Mate.....	\$ 42.94	23.60

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 IRON0377-002 01/01/2019

	Rates	Fringes
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Ironworkers:

Fence Erector.....	\$ 32.58	23.41
Ornamental, Reinforcing and Structural.....	\$ 39.00	32.05

PREMIUM PAY:

\$6.00 additional per hour at the following locations:

China Lake Naval Test Station, Chocolate Mountains Naval Reserve-Niland, Edwards AFB, Fort Irwin Military Station, Fort Irwin Training Center-Goldstone, San Clemente Island, San Nicholas Island, Susanville Federal Prison, 29 Palms - Marine Corps, U.S. Marine Base - Barstow, U.S. Naval Air Facility - Sealey, Vandenberg AFB

\$4.00 additional per hour at the following locations:

Army Defense Language Institute - Monterey, Fallon Air Base, Naval Post Graduate School - Monterey, Yermo Marine Corps Logistics Center

\$2.00 additional per hour at the following locations:

Port Hueneme, Port Mugu, U.S. Coast Guard Station - Two Rock

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LABO0300-005 01/01/2018

	Rates	Fringes
Asbestos Removal Laborer.....	\$ 33.19	17.78

SCOPE OF WORK: Includes site mobilization, initial site cleanup, site preparation, removal of asbestos-containing material and toxic waste, encapsulation, enclosure and disposal of asbestos- containing materials and toxic waste by hand or with equipment or machinery; scaffolding, fabrication of temporary wooden barriers and assembly of decontamination stations.

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LABO0345-001 07/01/2018

	Rates	Fringes
LABORER (GUNITE)		
GROUP 1.....	\$ 42.18	18.27
GROUP 2.....	\$ 41.23	18.27
GROUP 3.....	\$ 37.69	18.27

FOOTNOTE: GUNITE PREMIUM PAY: Workers working from a Bosn'n's Chair or suspended from a rope or cable shall receive 40 cents per hour above the foregoing applicable classification rates. Workers doing gunite and/or shotcrete work in a tunnel shall receive 35 cents per hour above the foregoing applicable classification rates, paid on a portal-to-portal basis. Any work performed on, in or

above any smoke stack, silo, storage elevator or similar type of structure, when such structure is in excess of 75'-0" above base level and which work must be performed in whole or in part more than 75'-0" above base level, that work performed above the 75'-0" level shall be compensated for at 35 cents per hour above the applicable classification wage rate.

GUNITE LABORER CLASSIFICATIONS

GROUP 1: Rodmen, Nozzlemen

GROUP 2: Gunmen

GROUP 3: Reboundmen

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LABO0783-002 07/01/2018

	Rates	Fringes
LABORER (TUNNEL)		
GROUP 1.....	\$ 40.19	19.07
GROUP 2.....	\$ 40.51	19.07
GROUP 3.....	\$ 40.97	19.07
GROUP 4.....	\$ 41.66	19.07
LABORER		
GROUP 1.....	\$ 34.24	19.07
GROUP 2.....	\$ 34.79	19.07
GROUP 3.....	\$ 35.34	19.07
GROUP 4.....	\$ 36.89	19.07
GROUP 5.....	\$ 37.24	19.07

LABORER CLASSIFICATIONS

GROUP 1: Cleaning and handling of panel forms; Concrete screeding for rough strike-off; Concrete, water curing; Demolition laborer, the cleaning of brick if performed by a worker performing any other phase of demolition work, and the cleaning of lumber; Fire watcher, limber, brush loader, piler and debris handler; Flag person; Gas, oil and/or water pipeline laborer; Laborer, asphalt-rubber material loader; Laborer, general or construction; Laborer, general clean-up; Laborer, landscaping; Laborer, jetting; Laborer, temporary water and air lines; Material hose operator (walls, slabs, floors and decks); Plugging, filling of shee bolt holes; Dry packing of concrete; Railroad maintenance, repair track person and road beds; Streetcar and railroad construction track laborers; Rigging and signaling; Scaler; Slip form raiser; Tar and mortar; Tool crib or tool house laborer; Traffic control by any method; Window cleaner; Wire mesh pulling - all concrete pouring operations

GROUP 2: Asphalt shoveler; Cement dumper (on 1 yd. or larger

mixer and handling bulk cement); Cesspool digger and installer; Chucktender; Chute handler, pouring concrete, the handling of the chute from readymix trucks, such as walls, slabs, decks, floors, foundation, footings, curbs, gutters and sidewalks; Concrete curer, impervious membrane and form oiler; Cutting torch operator (demolition); Fine grader, highways and street paving, airport, runways and similar type heavy construction; Gas, oil and/or water pipeline wrapper - pot tender and form person; Guinea chaser; Headerboard person - asphalt; Laborer, packing rod steel and pans; Membrane vapor barrier installer; Power broom sweeper (small); Riprap stonepaver, placing stone or wet sacked concrete; Roto scraper and tiller; Sandblaster (pot tender); Septic tank digger and installer(lead); Tank scaler and cleaner; Tree climber, faller, chain saw operator, Pittsburgh chipper and similar type brush shredder; Underground laborer, including caisson bellower

GROUP 3: Buggymobile person; Concrete cutting torch; Concrete pile cutter; Driller, jackhammer, 2-1/2 ft. drill steel or longer; Dri-pak-it machine; Gas, oil and/or water pipeline wrapper, 6-in. pipe and over, by any method, inside and out; High scaler (including drilling of same); Hydro seeder and similar type; Impact wrench multi-plate; Kettle person, pot person and workers applying asphalt, lay-kold, creosote, lime caustic and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Operator of pneumatic, gas, electric tools, vibrating machine, pavement breaker, air blasting, come-alongs, and similar mechanical tools not separately classified herein; Pipelayer's backup person, coating, grouting, making of joints, sealing, caulking, diapering and including rubber gasket joints, pointing and any and all other services; Rock slinger; Rotary scarifier or multiple head concrete chipping scarifier; Steel headerboard and guideline setter; Tamper, Barko, Wacker and similar type; Trenching machine, hand-propelled

GROUP 4: Asphalt raker, lute person, ironer, asphalt dump person, and asphalt spreader boxes (all types); Concrete core cutter (walls, floors or ceilings), grinder or sander; Concrete saw person, cutting walls or flat work, scoring old or new concrete; Cribber, shorer, lagging, sheeting and trench bracing, hand-guided lagging hammer; Head rock slinger; Laborer, asphalt- rubber distributor boot person; Laser beam in connection with laborers' work; Oversize concrete vibrator operator, 70 lbs. and over; Pipelayer performing all services in the laying and installation of pipe from the point of receiving pipe in the ditch until completion of operation, including any and all forms of tubular material, whether pipe, metallic or non-metallic, conduit and any other stationary type of tubular device used for the conveying of any substance or element, whether

water, sewage, solid gas, air, or other product whatsoever and without regard to the nature of material from which the tubular material is fabricated; No-joint pipe and stripping of same; Prefabricated manhole installer; Sandblaster (nozzle person), water blasting, Porta Shot-Blast

GROUP 5: Blaster powder, all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Driller: All power drills, excluding jackhammer, whether core, diamond, wagon, track, multiple unit, and any and all other types of mechanical drills without regard to the form of motive power; Toxic waste removal

TUNNEL LABORER CLASSIFICATIONS

GROUP 1: Batch plant laborer; Changehouse person; Dump person; Dump person (outside); Swamper (brake person and switch person on tunnel work); Tunnel materials handling person; Nipper; Pot tender, using mastic or other materials (for example, but not by way of limitation, shotcrete, etc.)

GROUP 2: Chucktender, cabletender; Loading and unloading agitator cars; Vibrator person, jack hammer, pneumatic tools (except driller); Bull gang mucker, track person; Concrete crew, including rodder and spreader

GROUP 3: Blaster, driller, powder person; Chemical grout jet person; Cherry picker person; Grout gun person; Grout mixer person; Grout pump person; Jackleg miner; Jumbo person; Kemper and other pneumatic concrete placer operator; Miner, tunnel (hand or machine); Nozzle person; Operating of troweling and/or grouting machines; Powder person (primer house); Primer person; Sandblaster; Shotcrete person; Steel form raiser and setter; Timber person, retimber person, wood or steel; Tunnel Concrete finisher

GROUP 4: Diamond driller; Sandblaster; Shaft and raise work

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LABO0783-005 07/01/2018

	Rates	Fringes
Brick Tender.....	\$ 32.26	18.40

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LABO1184-001 07/01/2018

	Rates	Fringes
Laborers: (HORIZONTAL DIRECTIONAL DRILLING)		
(1) Drilling Crew Laborer...	\$ 35.70	14.03
(2) Vehicle Operator/Hauler.	\$ 35.87	14.03

(3) Horizontal Directional Drill Operator.....	\$ 37.72	14.03
(4) Electronic Tracking Locator.....	\$ 39.72	14.03
Laborers: (STRIPING/SLURRY SEAL)		
GROUP 1.....	\$ 35.86	16.21
GROUP 2.....	\$ 37.16	16.21
GROUP 3.....	\$ 39.17	16.21
GROUP 4.....	\$ 40.91	16.21

LABORERS - STRIPING CLASSIFICATIONS

GROUP 1: Protective coating, pavement sealing, including repair and filling of cracks by any method on any surface in parking lots, game courts and playgrounds; carstops; operation of all related machinery and equipment; equipment repair technician

GROUP 2: Traffic surface abrasive blaster; pot tender - removal of all traffic lines and markings by any method (sandblasting, waterblasting, grinding, etc.) and preparation of surface for coatings. Traffic control person: controlling and directing traffic through both conventional and moving lane closures; operation of all related machinery and equipment

GROUP 3: Traffic delineating device applicator: Layout and application of pavement markers, delineating signs, rumble and traffic bars, adhesives, guide markers, other traffic delineating devices including traffic control. This category includes all traffic related surface preparation (sandblasting, waterblasting, grinding) as part of the application process. Traffic protective delineating system installer: removes, relocates, installs, permanently affixed roadside and parking delineation barricades, fencing, cable anchor, guard rail, reference signs, monument markers; operation of all related machinery and equipment; power broom sweeper

GROUP 4: Striper: layout and application of traffic stripes and markings; hot thermo plastic; tape traffic stripes and markings, including traffic control; operation of all related machinery and equipment

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LABO1414-003 08/08/2018

Rates      Fringes

LABORER		
PLASTER CLEAN-UP LABORER....	\$ 33.82	19.40
PLASTER TENDER.....	\$ 36.37	19.40

Work on a swing stage scaffold: \$1.00 per hour additional.

Work at Military Bases - \$3.00 additional per hour:  
Coronado Naval Amphibious Base, Fort Irwin, Marine Corps Air Station-29 Palms, Imperial Beach Naval Air Station, Marine Corps Logistics Supply Base, Marine Corps Pickle Meadows, Mountain Warfare Training Center, Naval Air Facility-Seeley, North Island Naval Air Station, Vandenberg AFB.

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PAIN0036-001 07/01/2018

Rates Fringes

Painters: (Including Lead Abatement)

(1) Repaint (excludes San Diego County).....\$ 27.59 14.92  
(2) All Other Work.....\$ 31.12 15.04

REPAINT of any previously painted structure. Exceptions: work involving the aerospace industry, breweries, commercial recreational facilities, hotels which operate commercial establishments as part of hotel service, and sports facilities.

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PAIN0036-008 10/01/2018

Rates Fringes

DRYWALL FINISHER/TAPER.....\$ 40.18 19.22

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PAIN0036-015 06/01/2018

Rates Fringes

GLAZIER.....\$ 42.20 25.50

FOOTNOTE: Additional \$1.25 per hour for work in a condor, from the third (3rd) floor and up Additional \$1.25 per hour for work on the outside of the building from a swing stage or any suspended contrivance, from the ground up

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PAIN1247-002 05/01/2018

Rates Fringes

SOFT FLOOR LAYER.....\$ 33.85 14.56

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PLAS0200-008 08/01/2018

	Rates	Fringes
PLASTERER.....	\$ 36.86	18.00

FORT IRWIN; MARINE CORPS AIR STATION 29 PALMS, AND MARINE CORPS LOGISTICS SUPPLY BASE: \$3.00 additional per hour.

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 PLAS0500-002 07/01/2018

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 35.75	22.48

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 PLUM0016-002 09/01/2018

	Rates	Fringes
PLUMBER, PIPEFITTER, STEAMFITTER		
Plumber and Pipefitter		
All other work except		
work on new additions and		
remodeling of bars,		
restaurant, stores and		
commercial buildings not		
to exceed 5,000 sq. ft.		
of floor space and work		
on strip malls, light		
commercial, tenant		
improvement and remodel		
work.....	\$ 50.13	22.16
Work at Edwards AFB.....	\$ 57.13	22.16
Work at Fort Irwin Army		
Base, Marine Corps		
Logistic Base at Nebo,		
Marine Corps Logistic Base		
at Yermo and Twenty-Nine		
Palms Marine Base.....	\$ 60.03	22.16
Work ONLY on new additions		
and remodeling of bars,		
restaurants, stores and		
commercial buildings, not		
to exceed 5,000 sq. ft. of		
floor space.....	\$ 48.58	21.18
Work ONLY on strip malls,		
light commercial, tenant		
improvement and remodel		
work.....	\$ 37.10	19.51

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 PLUM0345-001 07/01/2017

	Rates	Fringes
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PLUMBER

Landscape/Irrigation Fitter.	\$ 32.30	21.00
Sewer & Storm Drain Work....	\$ 33.24	17.13

ROOF0036-002 08/01/2018

Rates Fringes

ROOFER.....	\$ 38.12	16.97
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FOOTNOTE: Pitch premium: Work on which employees are exposed to pitch fumes or required to handle pitch, pitch base or pitch impregnated products, or any material containing coal tar pitch, the entire roofing crew shall receive \$1.75 per hour "pitch premium" pay.

SFCA0669-009 04/01/2018

Does not include the northern part of the City of Chino, or the Cities of Montclair and Ontario

Rates Fringes

SPRINKLER FITTER.....	\$ 39.73	21.90
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SFCA0709-004 01/01/2018

THE NORTHERN PART OF THE CITY OF CHINO, AND THE CITIES OF MONTCLAIR AND ONTARIO:

Rates Fringes

SPRINKLER FITTER (Fire).....	\$ 42.26	25.92
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SHEE0105-003 01/01/2019

LOS ANGELES (South of a straight line drawn between Gorman and Big Pines)and Catalina Island, INYO, KERN (Northeast part, East of Hwy 395), MONO ORANGE, RIVERSIDE, AND SAN BERNARDINO COUNTIES

Rates Fringes

SHEET METAL WORKER

(1) Commercial - New Construction and Remodel work.....	\$ 44.28	28.46
(2) Industrial work including air pollution control systems, noise abatement, hand rails,		

guard rails, excluding  
 aritechtrual sheet metal  
 work, excluding A-C,  
 heating, ventilating  
 systems for human comfort...\$ 44.28            28.46

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 TEAM0011-002 07/01/2018

Rates            Fringes

TRUCK DRIVER

GROUP 1.....	\$ 30.59	28.59
GROUP 2.....	\$ 30.74	28.59
GROUP 3.....	\$ 30.87	28.59
GROUP 4.....	\$ 31.06	28.59
GROUP 5.....	\$ 31.09	28.59
GROUP 6.....	\$ 31.12	28.59
GROUP 7.....	\$ 31.37	28.59
GROUP 8.....	\$ 31.62	28.59
GROUP 9.....	\$ 31.82	28.59
GROUP 10.....	\$ 32.12	28.59
GROUP 11.....	\$ 32.62	28.59
GROUP 12.....	\$ 33.05	28.59

WORK ON ALL MILITARY BASES:

PREMIUM PAY: \$3.00 per hour additional.

[29 palms Marine Base, Camp Roberts, China Lake, Edwards AFB,  
 El Centro Naval Facility, Fort Irwin, Marine Corps  
 Logistics Base at Nebo & Yermo, Mountain Warfare Training  
 Center, Bridgeport, Point Arguello, Point Conception,  
 Vandenberg AFB]

TRUCK DRIVERS CLASSIFICATIONS

GROUP 1: Truck driver

GROUP 2: Driver of vehicle or combination of vehicles - 2  
 axles; Traffic control pilot car excluding moving heavy  
 equipment permit load; Truck mounted broom

GROUP 3: Driver of vehicle or combination of vehicles - 3  
 axles; Boot person; Cement mason distribution truck; Fuel  
 truck driver; Water truck - 2 axle; Dump truck, less than  
 16 yds. water level; Erosion control driver

GROUP 4: Driver of transit mix truck, under 3 yds.; Dumpcrete  
 truck, less than 6-1/2 yds. water level

GROUP 5: Water truck, 3 or more axles; Truck greaser and tire  
 person (\$0.50 additional for tire person); Pipeline and  
 utility working truck driver, including winch truck and  
 plastic fusion, limited to pipeline and utility work;

Slurry truck driver

GROUP 6: Transit mix truck, 3 yds. or more; Dumpcrete truck, 6-1/2 yds. water level and over; Vehicle or combination of vehicles - 4 or more axles; Oil spreader truck; Dump truck, 16 yds. to 25 yds. water level

GROUP 7: A Frame, Swedish crane or similar; Forklift driver; Ross carrier driver

GROUP 8: Dump truck, 25 yds. to 49 yds. water level; Truck repair person; Water pull - single engine; Welder

GROUP 9: Truck repair person/welder; Low bed driver, 9 axles or over

GROUP 10: Dump truck - 50 yds. or more water level; Water pull - single engine with attachment

GROUP 11: Water pull - twin engine; Water pull - twin engine with attachments; Winch truck driver - \$1.25 additional when operating winch or similar special attachments

GROUP 12: Boom Truck 17K and above

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

## Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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## WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====

END OF GENERAL DECISION



**SUBJECT  
PROHIBITING WEAPONS IN THE WORKPLACE**

**APPROVED BY OMNITRANS  
BOARD OF DIRECTORS**

DATE: June 7, 2017

**I. Purpose**

It is the policy of Omnitrans to maintain a work environment that is safe for all persons, including the community, and conducive to attaining high work standards. To achieve these objectives, the Agency prohibits the possession of firearms and weapons in the work place, regardless of any license or permit that an individual may have which otherwise authorizes the individual to carry firearms or weapons.

It is illegal and a criminal violation to possess weapons in public buildings (California Penal Code 171b and 171.7).

**II. Scope**

This policy applies to all Omnitrans employees, including but not limited to staffing agency workers and contractors working for or with the Agency at any time, regardless of whether the Agency is the actual employer.

Possession of firearms and weapons is prohibited at all Omnitrans' offices, parking lots, agency vehicles and job sites, and in all Agency vehicles.

The following person/s are exempt from this policy as stated: a guard of a contract carrier operating an armored vehicle, and any law enforcement officer who is carrying out official duties engaged in protecting and preserving property or life within the scope of his or her employment.

Omnitrans will strictly enforce this policy. Violation of this policy will result in immediate disciplinary action, up to and including termination.

**III. Procedure**

**A. COMMUNICATION OF POLICY**

(a) Each employee of the Agency shall receive a copy of this policy at the time of his/her hire and shall sign a copy of the acknowledgment. Employees who were employed before the effective date of this policy shall also receive a copy of this policy and shall sign a copy of the acknowledgment. A copy of the signed acknowledgment and of all new and revised policies throughout the employee's employment shall be maintained in each employee's personnel file.

(b) A copy of this policy shall be attached to each contractor's contract, and shall become a part of its contract. The contractor shall be responsible for communicating this policy to its employees and any subcontractors to which the contractor sublets any portion of its contract.



**SUBJECT  
PROHIBITING WEAPONS IN THE WORKPLACE**

**APPROVED BY OMNITRANS  
BOARD OF DIRECTORS**

DATE: June 7, 2017

**B. PROHIBITED CONDUCT**

(a) The transportation of firearms or weapons in Agency vehicles is prohibited. This includes but is not limited to:

- (1) to and from work,
- (2) when conducting Agency business,
- (3) at all times in Agency-owned or leased vehicles.

(b) The possession or carrying of permitted and non-permitted firearms or weapons while at Agency buildings, parking lots, sponsored events, and job sites.

(c) Exception: Power actuated tools which are manufactured for the use of fastening building materials and sanctioned tools for the purpose of performing Agency job duties are not subject to this policy.

**C. SEARCH**

(a) Omnitrans reserves the right to conduct reasonable, unannounced searches of Agency premises and personal searches of employees and others while entering, on, or leaving Agency premises, including, but not limited to, personal effects, vehicles, lockers, desks, tool boxes, clothing, meal containers, and baggage. Searches will be conducted when the Agency has a reasonable suspicion to believe that a particular employee may be in possession of a weapon or firearm.

(b) "Reasonable suspicion" is defined as a suspicion that is based on specific personal observations such as an employee's manner, disposition, behavior, speech, information provided to management by an employee, by law enforcement officials, by a security service, or by other persons believed to be reliable, or a suspicion that is based on other surrounding circumstances.

(c) Individuals refusing to allow an inspection will not be detained or forced to submit to the inspection. Refusal violates Agency policy and constitutes an act of insubordination constituting disciplinary action, up to and including separation of the employment relationship. Non-employees who refuse to allow an inspection will not be permitted on Agency premises and will be required to immediately leave the premises. Employees will be relieved of all duties while pending investigation.

**D. DISCIPLINE**

(a) Violations of any portion of this policy will subject the employee to discipline,



**SUBJECT  
PROHIBITING WEAPONS IN THE WORKPLACE**

**APPROVED BY OMNITRANS  
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up to and including separation of employment.

(b) Violations by a contractor's employee or subcontractor of any portion of this policy may constitute a breach of contract and regardless will mandate the immediate removal of the contractor's employee from Agency premises, prohibition against the individual accessing Agency premises in the future, and may also constitute a breach of contract.

**E. REPORT OF VIOLATIONS**

**1. Employee Violations**

Employees are required to report violations of this policy without regard to the relationship between the individual who initiates the prohibited behavior and the individual reporting it. An employee who believes that another employee may be in violation of this policy must report the alleged violation to the employee's manager or supervisor, the department director, security, or the appropriate departmental Human Resources representative.

Departments are responsible for implementing this policy. The Agency will promptly investigate allegations of violations of this policy.

OmniTrans reserves the right to authorize searches for prohibited weapons on its property when a violation is reported or when probable cause or reasonable suspicion is present consistent with law.

Employees should be aware that there is no reasonable expectation of privacy with respect to weapons in the workplace. The Agency's right to conduct searches includes, but is not limited to, such areas and items as lockers, desks, workstations, offices, purses, briefcases, bags, toolboxes, and lunch bags.

Searches of the employee's work area and belongings, as described above, may be conducted by the Security & Emergency Preparedness Coordinator, or designee. Searches of all types, including surrounding agency property, personal property and the employee may be conducted by law enforcement in accordance with law should reasonable suspicion be present. Any weapon found in violation of this policy may be confiscated. Refusal to permit a search may result in discipline, up to and including separation.

**2. Visitor Violations**

Visitors are not allowed to carry a weapon on the premises. Any visitor carrying a weapon into a posted no-carry agency facility is creating an elevated risk to security and safety that warrants a response leading to compliance with the law. If the visitor



**SUBJECT  
PROHIBITING WEAPONS IN THE WORKPLACE**

**APPROVED BY OMNITRANS  
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poses an immediate risk to security or safety, law enforcement shall be notified immediately by calling 9-911. The visitor shall be considered an immediate risk to safety and security if he/she is acting in an aggressive, belligerent, confrontational, suspicious or in an otherwise questionable manner while carrying a weapon.

**F. FALSE REPORTS**

Employees making intentionally false and malicious complaints of weapons in the workplace will be subject to disciplinary action, up to and including separation and/or will be reported to the proper authorities as appropriate.

**G. ROLES AND RESPONSIBILITIES**

Employees are responsible for understanding and complying with the Policy Prohibiting Weapons in the Workplace.

Whenever there is a question as to whether an instrument, article or substance is considered a weapon in violation of this policy, it is the employee's responsibility to seek clarification. Employees seeking clarification should direct their questions to the agency's Security & Emergency Preparedness Coordinator at 909-379-7117 prior to bringing the item(s) to Omnitrans work sites and events, as well as agency-owned or leased facilities or vehicles.

**H. SAFETY FIRST**

In applying this policy, no employee shall take any action that will risk his or her own safety or the safety of other individuals. No attempt should ever be made by an employee to restrain or forcibly evict an armed person from agency premises.

An individual's continued non-compliance after being properly informed of the law (California Penal Code 171 (b)) will result in notification to law enforcement and discipline, up to and including separation of employment. Employees should notify security immediately.

An employee who feels an imminent danger to his or her own safety or the safety or security of others, should avoid any interaction with the individual. Immediately contact law enforcement by calling 9-911 and security at 909-379-7117.

**I. ANTI-RETALIATION PROVISION**

Omnitrans strictly prohibits any retaliation against an employee who has reported a possible breach of policy. If an employee feels that he or she has been subjected to retaliation in violation of this policy, the employee must immediately report it to his or her supervisor or other designated Human Resources representative.



SUBJECT  
**PROHIBITING WEAPONS IN THE WORKPLACE**

APPROVED BY OMNITRANS  
BOARD OF DIRECTORS

DATE: June 7, 2017

J. DEFINITIONS

1. **Firearm or weapon includes, but is not limited to:** A weapon, a pistol or rifle, whether loaded or unloaded, capable of firing a projectile and using an explosive as a propellant.
  - A firearm, whether loaded or unloaded, from which a shot may be discharged including but not limited to handguns, pistols, revolvers, shotguns, rifles, and bb guns;
  - A gun that can discharge a shot or a projectile by means of an explosive or gas, or compressed air;
  - A device designed to be used as a weapon, from which can be expelled a projectile by the force of any explosion or force of combustion;
  - Any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive;
  - Any destructive device;
  - Any device designed as a weapon and capable of producing great bodily harm, including but not limited to, stun guns, stun batons;
  - An electric weapon such as a taser gun;
  - Any combustible or flammable liquid, or other substance, device, or instrumentality that, in a manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm, or any fire that is used to produce death or great bodily harm;
  - Any knife that is carried with intention or calculation to produce death or great bodily harm having a blade length in excess of four (4) inches, the blade of which is fixed or is capable of being fixed in an unguarded position by the use of one or two hands. Switchblades are specifically prohibited. (Knives intended to be used as eating utensils, and stored or maintained in office kitchens or lunchrooms do not represent a violation of this policy.)
2. **Office:** All permanent facilities, all mobile facilities, all leased facilities, and any facility designated as an office by the agency.
3. **Parking lot:** All lots at permanent facility, park and rides, lots at project sites, any lot that the agency designates as a parking lot that is not at a permanent facility or project site.
4. **Agency vehicle:** All agency-owned buses/vehicles, all agency-leased buses/vehicles, all agency-rental buses/vehicles, and all personal vehicles for which the owner receives a vehicle allowance, all personal vehicles where the owner receives reimbursement for mileage.



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BOARD OF DIRECTORS**

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5. **Search:** To examine in order to find something concealed.

6. **Job sites:** Any and all locations where the agency conducts business.

SIGNS

1. At each entrance to buildings, parking lots, and project sites, a sign shall be posted in a location that is conspicuous to all who could enter a building, parking lot, or project site.
2. Signs shall have wording or pictogram that prohibits firearms, weapons and give notice of video surveillance. Signs shall be vandalism resistant and of the quality that they will not fade due to the elements.



**CONTRACT AGREEMENT**

between

CONSULTANT  
Celtis Ventures, Inc.  
215 Avenue I, Suite 104  
Redondo Beach, CA 90277

(hereinafter "CONSULTANT")  
Contact: Matt Raymond, President  
Telephone: 310-374-7570 ext. 101  
Email: matt@celtis.com

And

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

**CONTRACT DOCUMENTS**

**CONTRACT NO. MKP19-19**

**Advertising and Design Services**

Contract Amount: \$2,018,114

Omnitrans Project Manager:

Name: Wendy Williams  
Title: Director of Marketing  
Telephone: (909) 379-7151  
Email:  
[wendy.williams@omnitrans.org](mailto:wendy.williams@omnitrans.org)

Contract Administrator:

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



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ATTACHMENT A – SCOPE OF WORK

ATTACHMENT B – PRICING SCHEDULE

ATTACHMENT C – PROHIBITING WEAPONS IN THE WORKPLACE

This Agreement is made and entered into as of this 1st day of July, 2019, by and between Omnitrans (hereinafter referred to as "OMNITRANS") and Celtis Ventures, Inc. (hereinafter referred to as "CONSULTANT").

## **RECITALS**

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

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

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

### **1. SCOPE OF WORK**

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

### **2. PERIOD OF PERFORMANCE**

The term of this Agreement shall be from the date of execution of this Agreement and continue in effect through June 30, 2022, unless terminated as specified in Section 10 and 11 of this Agreement. Omnitrans has no obligation to purchase any specified amount of products/services. All applicable indemnification provisions in this Agreement shall remain in effect following the termination of this Agreement.

Omnitrans' election to extend the Agreement beyond the Initial Term shall not diminish its right to terminate the Agreement for Omnitrans' convenience or CONSULTANTS default as provided elsewhere in this Agreement. The "maximum term" of this Agreement shall be the period extended from July 1, 2022 through June 30, 2024, which period encompasses the Initial Term and the Option Year One and Option Year Two.

### **3. CONTRACT OPTIONS**

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

### **4. COMPENSATION**

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

OMNITRANS' maximum cumulative payment obligation under this Agreement shall not exceed Two Million Eighteen Thousand One Hundred Fourteen Dollars (\$2,018,114), including all amounts payable to CONSULTANT for all costs, including but not limited to direct labor, other direct costs, subcontracts, indirect costs including, but not limited to, leases, materials, taxes, insurance, and profit.

## 5. INVOICING AND PAYMENT

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

CONSULTANT shall submit invoices in duplicate to:

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

[Accountspayable@omnitrans.org](mailto:Accountspayable@omnitrans.org)

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

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

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

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

- C. TITLE

a. Title shall pass to Omnitrans at the time of payment.

b. The title transferred as above shall in each case be good, and free and clear from any and all security interests, liens, and/or other encumbrances.

c. The transfer of title as specified above shall not imply Acceptance by Omnitrans, nor relieve the Consultant from the responsibility for strict

compliance with the Contract, including warranty as specified in the Article entitled Warranty of Work, and for any loss of or damage to the Work.

d. The Consultant at its own expense shall promptly execute, acknowledge, and deliver to the Omnitrans proper bills of sale or other written instruments of title in a form as required by Omnitrans; said instruments shall convey to the Omnitrans' title free and clear of debts, claims, liens, mortgages, taxes, and/or encumbrances.

e. Consultant shall have title to and bear the risk of any loss of or damage to Work purchased hereunder until they are delivered, unloaded, and received by Omnitrans at the FOB Destination specified herein. Consultant's responsibility for loss or damage except for loss or damage resulting from Consultant's negligence, shall cease when title passes to Omnitrans.

## **6. AUDIT AND INSPECTION OF RECORDS**

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

## **7. NOTIFICATION**

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

To OMNITRANS:

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

To CONSULTANT:

Celtis Ventures, Inc.  
215 Avenue I, Suite 104  
Redondo Beach, CA 90277  
Attn: Matt Raymond, President/CEO  
and Laura Raymond, COO/CFO

## 8. OMNITRANS' AND CONSULTANT'S REPRESENTATIVES

### A. OMNITRANS' Project Manager

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

Project Manager: Wendy Williams, Director of Marketing

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

### B. Consultant's Key Personnel

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

<u>Name</u>	<u>Role</u>	Phone: (310) 374-7570
Susana Andres	Project Manager	ext. 114
Sandra Gonzalez	Project Coordinator	ext. 107

Emily Kirwan	Digital Marketing Dir.	ext. 115
Rachel Lehn	Digital Marketing Mgr.	ext. 105
Georgina Artiga	Art Director	ext. 109
Carolina Chavez	Graphic Designer	ext. 106
James Ewing	Web Development Dir.	ext. 110
Patrick Tirschel	On-Call Web Support	ext. 116
Cristina Bonnici	Video Production Mgr.	ext. 102
Nicole Bonnici	Video Production Coord.	ext. 108
Matt Raymond	President	ext. 101
Brionna Simons	Marketing Dir.	ext. 117
Devon Cichoski	CCO PR Relations	ext. 103
Lindsey Raymond	Account Exe. Outreach	ext. 118

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

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

## **9. DISPUTE RESOLUTION**

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

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

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

## **10. TERMINATION FOR CONVENIENCE**

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

## **11. TERMINATION FOR BREACH OF AGREEMENT**

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

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

**12. ASSIGNMENT**

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

**13. SUBCONTRACTING**

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

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

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

**Subconsultant’s Name and Address**

**Work to Be Performed**

N/A

## 14. INDEPENDENT CONSULTANT

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

## 15. INSURANCE

### A. INSURANCE REQUIREMENTS

#### 1) General Requirements for Consultant

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

#### 2) Deductibles or Self-Insured Retention (SIR)

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

#### 3) Other Insurance Provisions

##### a. Commercial General Liability and Automobile Liability

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

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

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

**b. Workers' Compensation**

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

**c. Care, Custody, and Control**

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

**4) Acceptability of Insurers**

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

**5) Verification of Coverage**

- a. Consultant shall furnish Omnitrans with original endorsements affecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage

on its behalf. All insurance certificates and endorsements are to be received and approved by Omnitrans before work commences.

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

**6) Subconsultants**

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

**7) Notification of Terminated Insurance**

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

**B. MINIMUM INSURANCE COVERAGE**

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

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

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

## 16. INDEMNITY

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

## 17. REVISIONS IN SCOPE OF WORK

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

## 18. RIGHTS IN TECHNICAL DATA

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

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

## **19. OWNERSHIP OF REPORTS AND DOCUMENTS**

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

## **20. OWNERSHIP RIGHTS**

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

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

## **21. WORK FOR HIRE**

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

## **22. SUBMITTAL OF CLAIMS BY CONSULTANT**

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

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

## **23. EQUAL OPPORTUNITY**

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

## **24. STANDARD OF PERFORMANCE**

- A. CONSULTANT shall perform and exercise, and require its subconsultants to perform and exercise due professional care and competence in the performance of the Work in accordance with the requirements of this Agreement. CONSULTANT shall be responsible for the professional quality, technical accuracy, completeness and coordination of the Work, it being understood that OMNITRANS will be relying upon such professional

quality, accuracy, completeness and coordination in utilizing the Work. The foregoing obligations and standards shall constitute the "Standard of Performance" for purposes of this Agreement. The provisions of this paragraph shall survive termination or expiration of this Agreement and/or final payment thereunder.

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

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

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

## **26. DISQUALIFYING POLITICAL CONTRIBUTIONS**

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

## **27. COMPLIANCE WITH LAW**

- A. CONSULTANT shall familiarize itself with and perform the Work required under this Agreement in conformity with requirements and standards of OMNITRANS, municipal and public agencies, public and private utilities, special districts, and railroad agencies whose facilities and work may be affected by Work under this

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

- B. Government regulations that directly affect the CONSULTANT'S performance of this contract and unforeseen impacts, which neither party could have contemplated at the onset of the contract and have an unconscionable impact on the CONSULTANT may be given special pricing consideration. The parties, in good faith, shall review established rates and may adopt any mutually agreed new rates, which shall only be effective as agreed upon by the parties. Thorough documentation including all cost elements is required to support the Consultant's claim to any relief under this clause.

## **28. COMPLIANCE WITH LOBBYING POLICIES**

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

## **29. PUBLIC RECORDS ACT**

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

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

### **30. WAIVER/INVALIDITY**

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

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

### **31. FORCE MAJEURE**

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

### **32. CONFIDENTIALITY**

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

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

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

way imply that OMNITRANS endorses CONSULTANT's firm, service, and/or product.

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

#### **34. GOVERNING LAW**

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

#### **35. MODIFICATIONS TO AGREEMENT**

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

#### **36. LICENSING, PERMITS AND INSPECTION COSTS**

- A. The CONSULTANT warrants that it has all necessary licenses and permits required by the laws of the United States, State of California, and the County of San Bernardino, the Local Jurisdictions, and all other appropriate governmental agencies, and agrees to maintain these licenses and permits in effect for the duration of the Agreement. Further, FIRM warrants that its employees, agents, and consultants and subconsultants shall conduct themselves in compliance with such laws and licensure requirements including, without limitation, compliance with laws applicable to nondiscrimination, sexual harassment and ethical behavior throughout the duration of this Agreement. CONSULTANT further warrants that it shall not retain or employ an unlicensed subconsultant to perform work on this Project. CONSULTANT shall notify OMNITRANS immediately and in writing of its employees', agents', consultants' or subconsultants' inability to obtain or maintain, irrespective of the pendency of any appeal, any such licenses, permits, approvals, certificates, waivers, exemptions. Such inability shall be cause for termination of this Agreement.

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

**37. PRECEDENCE**

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement, and any and all of its Amendments, Appendices, Exhibits and Attachments; (2) provisions of RFP-MKP19-19 and any and all of its Addenda, Appendices, Exhibits and Attachments; and (3) CONSULTANT's proposal dated February 11, 2019 and its Appendices, Exhibits, Attachments and Best & Final Offer dated March 21, 2019.

**38. ENTIRE AGREEMENT**

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

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

OMNITRANS

CONSULTANT

\_\_\_\_\_  
P. Scott Graham  
CEO/General Manager

\_\_\_\_\_  
Matt Raymond  
President

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Federal Tax I.D. No. 46-4473426

CM \_\_\_\_\_

**ATTACHMENT A – SCOPE OF WORK**  
**MKP19-19**  
**ADVERTISING AND DESIGN SERVICES**

**1. INTRODUCTION, BACKGROUND, AND BUDGET**

**A. Introduction**

- 1) Consultant shall provide Advertising and Design Services to assist Omnitrans' Marketing Department in meeting its marketing goals.
- 2) Consultant shall provide all of the requirements stated herein. The requirements include, without limitation, providing professional creative and graphic design services; website design and maintenance; media analysis, production, and buying services; and advertising services. The required services include, without limitation, providing everything necessary to:
  - a) Develop and implement advertising campaigns as required by Omnitrans to meet its marketing goals and objectives;
  - b) Prepare, coordinate, design, and produce the graphics required for use in Omnitrans' advertising;
  - c) Develop and/or adhere to brand guidelines established for Agency services and programs;
  - d) Produce printed collateral, radio/television commercials, digital images, and other promotional materials;
  - e) Identify and match specific media and messages suitable for target markets;
  - f) Track, quantify, and evaluate the results and the effectiveness of promotional efforts;
  - g) Seek out, analyze, negotiate with, retain the services of, coordinate with, buy time from, and pay for media specialist firms as required by Omnitrans to advertise;
  - h) Serve as webmaster for [www.omnitrans.org](http://www.omnitrans.org), providing web hosting service, ongoing site maintenance and updates as well as future enhancements;
  - i) Perform all other tasks necessary to provide comprehensive advertising and design services, in the time required for up to a five-year period.
- 3) Omnitrans retains rights to manage its advertising sales and services program for transit vehicles, shelters and stations, print buying, public relations, market research, social media and community outreach activities.

**B. Budget**

- 1) While these amounts are budgeted, the figures supplied herein are not to be construed as a commitment on behalf of Omnitrans to spend these amounts with the awarded firm.
- 2) The Fiscal Year (FY) 2019-2020 Budget allocation projection is \$675,000.00 for:
  - a) **Advertising Agency Fees:** Includes gross media charges including commission rates, graphic design, creative direction, account management, website design and maintenance, and direct costs related to print, digital, radio and TV/video production, photography, etc.
  - b) **Local Media:** Occasionally, Omnitrans may elect to contract directly with local newspapers and other print media for advertising. This expense is not included in budget above.
  - c) **Print Production:** Omnitrans may elect to contract directly with printing vendors for printing of advertising materials. This expense is not included in budget above.
- 3) Subsequent year allocations will be determined during Omnitrans' annual budgeting process.

**2. PROJECT OBJECTIVES**

- A. Consultant to assist Omnitrans in development of a coordinated marketing effort through branding, advertising, collateral materials and the Agency website.
- B. Increase ridership among current riders, attract new riders, and increase overall market share for Omnitrans compared to other transportation modes.
- C. Increase sales of prepaid fare media including mobile fares.
- D. Enhance community awareness of Omnitrans.
- E. Enhance the image of Omnitrans.
- F. Provide accurate, timely, understandable, and accessible information about Omnitrans' services.

### 3. SCOPE OF WORK

#### A. Consultant shall assist Omnitrans in:

- 1) Creating and overseeing production of advertising materials suitable for print publication, radio, television, movie theater, outdoor and online advertising.
- 2) Creating and overseeing production of printed materials, including informational and promotional collateral items such as brochures, flyers, and posters for marketing campaigns.
- 3) Developing and maintaining branding for Agency services and programs.
- 4) Maintaining and enhancing Omnitrans' public website: [www.omnitrans.org](http://www.omnitrans.org)
- 5) Negotiating partnership/trade agreements with community partners such as but not limited to local sports franchises.
- 6) Effectively reaching population segments with Limited English Proficiency, including but not limited to Spanish speakers.
- 7) Analyzing and selecting appropriate media to reach target markets.
- 8) Utilizing Omnitrans' resources efficiently and effectively to achieve marketing goals.
- 9) Tracking, quantifying, and evaluating results and effectiveness of promotional efforts.

#### B. Consultant shall:

- 1) Provide, at its sole expense, all services that are necessary to fulfill the requirements of this scope of work, including tangent requirements that may not be included herein, but are necessary to fulfill the requirements.
- 2) Identify and match specific media and messages that are suitable for targeted populations respective to appropriate ethnicity, age, education, language, income level, and other factors.
- 3) Provide estimated costs for approval before media is purchased or promotional materials are fully developed.
- 4) Coordinate with Omnitrans' Marketing Department to ensure that advertising campaigns are integrated with related community outreach and customer communication efforts led by staff.

**4. REVIEW, ACCEPTANCE OR NON-ACCEPTANCE, & REVISION OF WORK**

**A. Pre-Production Review**

- 1) Omnitrans' Director of Marketing or designee (Project Manager) will review all work before its production to determine whether that work meets Omnitrans' requirements.
- 2) Project Manager may reject the work or parts of it, according to the Non-Acceptance of Work paragraphs, in which case production of the rejected work may not proceed.
- 3) Project Manager may accept the work or parts of the work according to the Acceptance of Work paragraphs, in which case production of the accepted work may proceed.

**B. Acceptance of the Work**

- 1) Project Manager will accept work that has been deemed satisfactory according to Omnitrans' requirements and will notify Consultant in writing.
- 2) Consultant shall bill Omnitrans for Accepted Work at the contracted rates.
  - a) Consultant shall provide documentation of all pass-through costs such as media buys and production expenses.

**C. Non-Acceptance of Work**

- 1) Project Manager will not accept work that does not meet acceptability measures according to Omnitrans' requirements, and will notify Consultant in either verbal or written form.
- 2) Project Manager will review the revised work according to Omnitrans' requirements and the Review, Acceptance or Non-Acceptance, & Revision of Work subsections.
- 3) Consultant shall make revisions to all unsatisfactory work at Consultant's sole expense until that work is accepted by Project Manager. Unsatisfactory work includes obvious errors or omissions, failure to carry out prescribed requirements, and non-professional work, which may include artistic work that does not, according to the Project Manager, adequately convey Omnitrans' requirements.
- 4) Consultant shall complete all revisions on work in the time required by the original request, unless otherwise approved by Project Manager, which approval will not unreasonably withhold.

\*End Scope of Work\*

**ATTACHMENT B - PRICING**

Include all direct and indirect costs necessary to perform the requirements of the contract.					
	<b>Base Yr 1</b>	<b>Base Yr 2</b>	<b>Base Yr 3</b>	<b>Opt Yr 1</b>	<b>Opt Yr 2</b>
<b>Beginning Date</b>	<b>07-01-19</b>	<b>07-01-20</b>	<b>07-01-21</b>	<b>07-01-22</b>	<b>07-01-23</b>
<b>Ending Date</b>	<b>06-30-20</b>	<b>06-30-21</b>	<b>06-30-22</b>	<b>06-30-23</b>	<b>06-30-24</b>
<b>Hourly Rate for Staff Positions</b>	<b>Rate</b>	<b>Rate</b>	<b>Rate</b>	<b>Rate</b>	<b>Rate</b>
1. Bilingual Project Manager	\$100	\$103	\$106	\$109	\$113
2. Assistant Project Coordinator	\$100	\$103	\$106	\$109	\$113
3. Digital Marketing Director	\$100	\$103	\$106	\$109	\$113
4. Art Director	\$100	\$103	\$106	\$109	\$113
5. Web Director	\$100	\$103	\$106	\$109	\$113
6. (continue on separate sheet)	Continued				
<b>Production Rate Range</b>	<b>Low/Mid/High</b>	<b>Low/Mid/High</b>	<b>Low/Mid/High</b>	<b>Low/Mid/High</b>	<b>Low/Mid/High</b>
7. Radio Ad: 60 Second	\$1,500	\$1,550	\$1,600	\$1,640	\$1,680
	\$3,000	\$3,000	\$3,000	\$3,300	\$3,400
	\$5,150	\$5,150	\$5,150	\$5,600	\$5,800
8. TV Ad: 30 Second	\$ 7,000	\$ 7,200	\$ 7,400	\$ 7,600	\$ 7,900
	\$14,000	\$14,400	\$14,800	\$15,300	\$15,700
	\$22,000	\$22,600	\$23,300	\$24,000	\$24,700
<b>Commission Rates (%)</b>	<b>Rate</b>	<b>Rate</b>	<b>Rate</b>	<b>Rate</b>	<b>Rate</b>
9. Media Commission Rate (%)	10	10	10	10	10
10. Other Commission Rate (%)	10	10	10	10	10
11. Other:					

	<b>Base Yr 1</b>	<b>Base Yr 2</b>	<b>Base Yr 3</b>	<b>Opt Yr 1</b>	<b>Opt Yr 2</b>
<b>Beginning Date</b>	<b>07-01-19</b>	<b>07-01-20</b>	<b>07-01-21</b>	<b>07-01-22</b>	<b>07-01-23</b>
<b>Ending Date</b>	<b>06-30-20</b>	<b>06-30-21</b>	<b>06-30-22</b>	<b>06-30-23</b>	<b>06-30-24</b>
<b>Hourly Rate for Staff Positions</b>	<b>Rate</b>	<b>Rate</b>	<b>Rate</b>	<b>Rate</b>	<b>Rate</b>
1. Video Director	\$100	\$103	\$106	\$109	\$113
2. President/CEO	\$100	\$103	\$106	\$109	\$113
3. Other Celtis staff (as needed)	\$100	\$103	\$106	\$109	\$113

## **Additional Sheet for Attachment B - Pricing MKP19-19**

Below addresses costs per the instruction sheet that are not addressed on pages 1 and 2, and includes additional cost-savings measures:

### **B1. Hourly rates for proposed staff**

- In order to simplify the billing process, Celtis utilizes a blended rate.

### **B2. Percentage of time projected annually:**

- Bilingual Project Manager (15%)
- Assistant Project Coordinator (10%)
- Digital Marketing Director (15%)
- Art Director (25%)
- Web Director (20%)
- Manager of Business Operation/Video Director (10%)
- President/CEO (5%)

### **B3. Rate for short social/digital ads (10-30 second ads)**

- Base Yr 1: \$1,000 - \$3,000 - \$5,000
- Base Yr 2: \$1,000 - \$3,000 - \$5,000
- Base Yr 3: \$1,020 - \$3,060 - \$5,100
- Opt Yr 1: \$1,040 - \$3,120 - \$5,200
- Opt Yr 2: \$1,060 - \$3,180 - \$5,300

### **B4. Other cost saving measures**

- More savings may be achieved with advanced planning of campaigns - we can produce all photography, voiceover, broadcast production, etc. at one time to cost-effectively give Omni-Trans an inventory of creative material that may be used across all broadcast and digital platforms throughout the year(s).
- Digital communications is another exceptional mechanism for maximizing marketing dollars. Celtis is adept in delivering smart-targeted digital campaigns that deliver measurable results (in almost real-time) while optimizing resources.
- Website SEO and functionality improvements can maximize marketing effectiveness - especially when coupled with digital/social marketing - a Celtis strength.
- Using facilities and fleet to extend brand and messaging is another potential cost-saving method that Celtis has strategically implemented with great success.
- Celtis experience in the transportation industry enables us to deliver the highest-quality campaigns in the most cost-effective manner for OmniTrans.



**SUBJECT  
PROHIBITING WEAPONS IN THE WORKPLACE**

**APPROVED BY OMNITRANS  
BOARD OF DIRECTORS**

DATE: June 7, 2017

**I. Purpose**

It is the policy of Omnitrans to maintain a work environment that is safe for all persons, including the community, and conducive to attaining high work standards. To achieve these objectives, the Agency prohibits the possession of firearms and weapons in the work place, regardless of any license or permit that an individual may have which otherwise authorizes the individual to carry firearms or weapons.

It is illegal and a criminal violation to possess weapons in public buildings (California Penal Code 171b and 171.7).

**II. Scope**

This policy applies to all Omnitrans employees, including but not limited to staffing agency workers and contractors working for or with the Agency at any time, regardless of whether the Agency is the actual employer.

Possession of firearms and weapons is prohibited at all Omnitrans' offices, parking lots, agency vehicles and job sites, and in all Agency vehicles.

The following person/s are exempt from this policy as stated: a guard of a contract carrier operating an armored vehicle, and any law enforcement officer who is carrying out official duties engaged in protecting and preserving property or life within the scope of his or her employment.

Omnitrans will strictly enforce this policy. Violation of this policy will result in immediate disciplinary action, up to and including termination.

**III. Procedure**

**A. COMMUNICATION OF POLICY**

(a) Each employee of the Agency shall receive a copy of this policy at the time of his/her hire and shall sign a copy of the acknowledgment. Employees who were employed before the effective date of this policy shall also receive a copy of this policy and shall sign a copy of the acknowledgment. A copy of the signed acknowledgment and of all new and revised policies throughout the employee's employment shall be maintained in each employee's personnel file.

(b) A copy of this policy shall be attached to each contractor's contract, and shall become a part of its contract. The contractor shall be responsible for communicating this policy to its employees and any subcontractors to which the contractor sublets any portion of its contract.



**SUBJECT  
PROHIBITING WEAPONS IN THE WORKPLACE**

**APPROVED BY OMNITRANS  
BOARD OF DIRECTORS**

DATE: June 7, 2017

**B. PROHIBITED CONDUCT**

(a) The transportation of firearms or weapons in Agency vehicles is prohibited. This includes but is not limited to:

- (1) to and from work,
- (2) when conducting Agency business,
- (3) at all times in Agency-owned or leased vehicles.

(b) The possession or carrying of permitted and non-permitted firearms or weapons while at Agency buildings, parking lots, sponsored events, and job sites.

(c) Exception: Power actuated tools which are manufactured for the use of fastening building materials and sanctioned tools for the purpose of performing Agency job duties are not subject to this policy.

**C. SEARCH**

(a) Omnitrans reserves the right to conduct reasonable, unannounced searches of Agency premises and personal searches of employees and others while entering, on, or leaving Agency premises, including, but not limited to, personal effects, vehicles, lockers, desks, tool boxes, clothing, meal containers, and baggage. Searches will be conducted when the Agency has a reasonable suspicion to believe that a particular employee may be in possession of a weapon or firearm.

(b) "Reasonable suspicion" is defined as a suspicion that is based on specific personal observations such as an employee's manner, disposition, behavior, speech, information provided to management by an employee, by law enforcement officials, by a security service, or by other persons believed to be reliable, or a suspicion that is based on other surrounding circumstances.

(c) Individuals refusing to allow an inspection will not be detained or forced to submit to the inspection. Refusal violates Agency policy and constitutes an act of insubordination constituting disciplinary action, up to and including separation of the employment relationship. Non-employees who refuse to allow an inspection will not be permitted on Agency premises and will be required to immediately leave the premises. Employees will be relieved of all duties while pending investigation.

**D. DISCIPLINE**

(a) Violations of any portion of this policy will subject the employee to discipline,



**SUBJECT  
PROHIBITING WEAPONS IN THE WORKPLACE**

**APPROVED BY OMNITRANS  
BOARD OF DIRECTORS**

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up to and including separation of employment.

(b) Violations by a contractor's employee or subcontractor of any portion of this policy may constitute a breach of contract and regardless will mandate the immediate removal of the contractor's employee from Agency premises, prohibition against the individual accessing Agency premises in the future, and may also constitute a breach of contract.

**E. REPORT OF VIOLATIONS**

**1. Employee Violations**

Employees are required to report violations of this policy without regard to the relationship between the individual who initiates the prohibited behavior and the individual reporting it. An employee who believes that another employee may be in violation of this policy must report the alleged violation to the employee's manager or supervisor, the department director, security, or the appropriate departmental Human Resources representative.

Departments are responsible for implementing this policy. The Agency will promptly investigate allegations of violations of this policy.

OmniTrans reserves the right to authorize searches for prohibited weapons on its property when a violation is reported or when probable cause or reasonable suspicion is present consistent with law.

Employees should be aware that there is no reasonable expectation of privacy with respect to weapons in the workplace. The Agency's right to conduct searches includes, but is not limited to, such areas and items as lockers, desks, workstations, offices, purses, briefcases, bags, toolboxes, and lunch bags.

Searches of the employee's work area and belongings, as described above, may be conducted by the Security & Emergency Preparedness Coordinator, or designee. Searches of all types, including surrounding agency property, personal property and the employee may be conducted by law enforcement in accordance with law should reasonable suspicion be present. Any weapon found in violation of this policy may be confiscated. Refusal to permit a search may result in discipline, up to and including separation.

**2. Visitor Violations**

Visitors are not allowed to carry a weapon on the premises. Any visitor carrying a weapon into a posted no-carry agency facility is creating an elevated risk to security and safety that warrants a response leading to compliance with the law. If the visitor



**SUBJECT  
PROHIBITING WEAPONS IN THE WORKPLACE**

**APPROVED BY OMNITRANS  
BOARD OF DIRECTORS**

DATE: June 7, 2017

poses an immediate risk to security or safety, law enforcement shall be notified immediately by calling 9-911. The visitor shall be considered an immediate risk to safety and security if he/she is acting in an aggressive, belligerent, confrontational, suspicious or in an otherwise questionable manner while carrying a weapon.

**F. FALSE REPORTS**

Employees making intentionally false and malicious complaints of weapons in the workplace will be subject to disciplinary action, up to and including separation and/or will be reported to the proper authorities as appropriate.

**G. ROLES AND RESPONSIBILITIES**

Employees are responsible for understanding and complying with the Policy Prohibiting Weapons in the Workplace.

Whenever there is a question as to whether an instrument, article or substance is considered a weapon in violation of this policy, it is the employee's responsibility to seek clarification. Employees seeking clarification should direct their questions to the agency's Security & Emergency Preparedness Coordinator at 909-379-7117 prior to bringing the item(s) to Omnitrans work sites and events, as well as agency-owned or leased facilities or vehicles.

**H. SAFETY FIRST**

In applying this policy, no employee shall take any action that will risk his or her own safety or the safety of other individuals. No attempt should ever be made by an employee to restrain or forcibly evict an armed person from agency premises.

An individual's continued non-compliance after being properly informed of the law (California Penal Code 171 (b)) will result in notification to law enforcement and discipline, up to and including separation of employment. Employees should notify security immediately.

An employee who feels an imminent danger to his or her own safety or the safety or security of others, should avoid any interaction with the individual. Immediately contact law enforcement by calling 9-911 and security at 909-379-7117.

**I. ANTI-RETALIATION PROVISION**

Omnitrans strictly prohibits any retaliation against an employee who has reported a possible breach of policy. If an employee feels that he or she has been subjected to retaliation in violation of this policy, the employee must immediately report it to his or her supervisor or other designated Human Resources representative.



SUBJECT  
**PROHIBITING WEAPONS IN THE WORKPLACE**

APPROVED BY OMNITRANS  
BOARD OF DIRECTORS

DATE: June 7, 2017

J. DEFINITIONS

1. **Firearm or weapon includes, but is not limited to:** A weapon, a pistol or rifle, whether loaded or unloaded, capable of firing a projectile and using an explosive as a propellant.

- A firearm, whether loaded or unloaded, from which a shot may be discharged including but not limited to handguns, pistols, revolvers, shotguns, rifles, and bb guns;
- A gun that can discharge a shot or a projectile by means of an explosive or gas, or compressed air;
- A device designed to be used as a weapon, from which can be expelled a projectile by the force of any explosion or force of combustion;
- Any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive;
- Any destructive device;
- Any device designed as a weapon and capable of producing great bodily harm, including but not limited to, stun guns, stun batons;
- An electric weapon such as a taser gun;
- Any combustible or flammable liquid, or other substance, device, or instrumentality that, in a manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm, or any fire that is used to produce death or great bodily harm;
- Any knife that is carried with intention or calculation to produce death or great bodily harm having a blade length in excess of four (4) inches, the blade of which is fixed or is capable of being fixed in an unguarded position by the use of one or two hands. Switchblades are specifically prohibited. (Knives intended to be used as eating utensils, and stored or maintained in office kitchens or lunchrooms do not represent a violation of this policy.)

2. **Office:** All permanent facilities, all mobile facilities, all leased facilities, and any facility designated as an office by the agency.

3. **Parking lot:** All lots at permanent facility, park and rides, lots at project sites, any lot that the agency designates as a parking lot that is not at a permanent facility or project site.

4. **Agency vehicle:** All agency-owned buses/vehicles, all agency-leased buses/vehicles, all agency-rental buses/vehicles, and all personal vehicles for which the owner receives a vehicle allowance, all personal vehicles where the owner receives reimbursement for mileage.



SUBJECT  
**PROHIBITING WEAPONS IN THE WORKPLACE**

APPROVED BY OMNITRANS  
BOARD OF DIRECTORS

DATE: June 7, 2017

5. **Search:** To examine in order to find something concealed.

6. **Job sites:** Any and all locations where the agency conducts business.

SIGNS

1. At each entrance to buildings, parking lots, and project sites, a sign shall be posted in a location that is conspicuous to all who could enter a building, parking lot, or project site.
2. Signs shall have wording or pictogram that prohibits firearms, weapons and give notice of video surveillance. Signs shall be vandalism resistant and of the quality that they will not fade due to the elements.



**CONTRACT AGREEMENT**

between

CONTRACTOR )  
Merrimac Petroleum, Inc. )  
dba Merrimac Energy Group )  
3738 Bayer Ave. Suite 204 )  
Long Beach, CA 90808 )

(hereinafter "CONTRACTOR") )  
Telephone: (562) 420-6000 )  
Email: bmainor@merrimacenergy.net )

Remit Address )  
Merrimac Petroleum, Inc. )  
dba Merrimac Energy Group )  
3738 Bayer Ave. Suite 204 )  
Long Beach, CA 90808 )

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

**CONTRACT DOCUMENTS**

**CONTRACT NO. STS19-61**

**DIESEL AND UNLEADED FUELS**

Contract Amount: \$1,935,535

Omnitrans Project Manager:  
Name: Frank Quass  
Title: Operations Services Supervisor  
Telephone: (909) 379-7212  
Email: [frank.quass@omnitrans.org](mailto:frank.quass@omnitrans.org)

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



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ATTACHMENT A - SCOPE OF WORK

ATTACHMENT B - REGULATORY REQUIREMENTS

ATTACHMENT C - PRICING

ATTACHMENT D – LIQUIDATED DAMAGES/DEMURRAGE

This Agreement is made and entered into as of this 1st day of July 2019, by and between Omnitrans (hereinafter referred to as "OMNITRANS") and Merrimac Petroleum Inc. dba Merrimac Energy Group (hereinafter referred to as "CONTRACTOR").

## RECITALS

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

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

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

### 1. SCOPE OF WORK

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

### 2. PERIOD OF PERFORMANCE

The term of this Agreement shall be from the date of execution of this Agreement and continue in effect through June 30, 2022, unless terminated as specified in Section 10 and 11 of this Agreement. Omnitrans has no obligation to purchase any specified amount of products/services. All applicable indemnification provisions in this Agreement shall remain in effect following the termination of this Agreement.

Omnitrans' election to extend the Agreement beyond the Initial Term shall not diminish its right to terminate the Agreement for Omnitrans' convenience or CONTRACTORS default as provided elsewhere in this Agreement. The "maximum term" of this Agreement shall be the period extended from July 1, 2022 through June 30, 2024, which period encompasses the Initial Term and the Option Year One and Option Year Two.

### **3. CONTRACT OPTIONS**

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

### **4. COMPENSATION**

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

OMNITRANS' maximum cumulative payment obligation under this Agreement shall not exceed One Million, Nine Hundred Thirty Five Thousand, Five Hundred and Thirty Five Dollars (\$1,935,535), including all amounts payable to CONTRACTOR for all costs, including but not limited to direct labor, other direct costs, subcontracts, indirect costs including, but not limited to, leases, materials, taxes, insurance, and profit.

**5. INVOICING AND PAYMENT**

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

CONTRACTOR shall submit invoices in duplicate to:

OMNITRANS  
1700 West Fifth Street  
San Bernardino, CA 92411  
Attn: Accounts Payable  
[Accountspayable@omnitrans.org](mailto:Accountspayable@omnitrans.org)

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

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

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

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

C. TITLE

- a. Title shall pass to Omnitrans at the time of payment.
- b. The title transferred as above shall in each case be good, and free and clear from any and all security interests, liens, and/or other encumbrances.
- c. The transfer of title as specified above shall not imply Acceptance by Omnitrans, nor relieve the Contractor from the responsibility for strict

compliance with the Contract, including warranty as specified in the Article entitled Warranty of Work, and for any loss of or damage to the Work.

d. The Contractor at its own expense shall promptly execute, acknowledge, and deliver to the Omnitrans proper bills of sale or other written instruments of title in a form as required by Omnitrans; said instruments shall convey to the Omnitrans' title free and clear of debts, claims, liens, mortgages, taxes, and/or encumbrances.

e. Contractor shall have title to and bear the risk of any loss of or damage to Work purchased hereunder until they are delivered, unloaded, and received by Omnitrans at the FOB Destination specified herein. Contractor's responsibility for loss or damage except for loss or damage resulting from Contractor's negligence, shall cease when title passes to Omnitrans.

## **6. AUDIT AND INSPECTION OF RECORDS**

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

## **7. NOTIFICATION**

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

To OMNITRANS:

Omnitrans  
1700 West Fifth Street  
San Bernardino, CA 92411  
Attn: Krystal N. Turner  
Title: Contract Administrator

To CONTRACTOR:

Merrimac Petroleum Inc. dba Merrimac  
Energy Group  
3738 Bayer Avenue Suite 204  
Long Beach, CA 90808  
Bruce Mainor  
Sales

## **8. OMNITRANS' AND CONTRACTOR'S REPRESENTATIVES**

### **A. OMNITRANS' Project Manager**

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

Project Manager: Frank Quass, Operations Services Supervisor.

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

**B. Contractor's Key Personnel**

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

<u>Name</u>	<u>Role</u>
Mary Hazelrigg	President
Bruce Mainor	Sales
Evan Peters	Sales

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

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

**9. DISPUTE RESOLUTION**

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

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

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

## **10. TERMINATION FOR CONVENIENCE**

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

## **11. TERMINATION FOR BREACH OF AGREEMENT**

- A. If CONTRACTOR fails to perform any of the provisions of this Agreement or so fails to make progress as to endanger timely performance of this Agreement, OMNITRANS may give CONTRACTOR written notice of such default. If CONTRACTOR does not cure such default or provide a plan to cure such default which is acceptable to OMNITRANS within the time permitted by OMNITRANS, then OMNITRANS may terminate this Agreement due to CONTRACTOR's breach of this Agreement.
- B. If a federal or state proceeding for relief of debtors is undertaken by or against CONTRACTOR, or if CONTRACTOR makes an assignment for the benefit of creditors, then OMNITRANS may immediately terminate this Agreement.
- C. If CONTRACTOR violates Section 28, Compliance with Lobbying Policies, of this Agreement, then OMNITRANS may immediately terminate this Agreement.
- D. In the event OMNITRANS terminates this Agreement as provided in this Section, OMNITRANS may procure, upon such terms and in such manner as OMNITRANS may deem appropriate, work similar in scope and level of effort to those so terminated, and CONTRACTOR shall be liable to OMNITRANS for all of its costs and damages, including, but not limited, any excess costs for such Work.
- E. All finished or unfinished documents and materials produced or procured under this Agreement shall become OMNITRANS' property upon date of such termination.

- F. If, after notice of termination of this Agreement under the provisions of this Section, it is determined for any reason that CONTRACTOR was not in default under the provisions of this Section, or that the default was excusable under the terms of this Agreement, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Section 10, Termination for Convenience.
- G. The rights and remedies of OMNITRANS provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

## **12. ASSIGNMENT**

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

## **13. SUBCONTRACTING**

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

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

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

Subcontractor's Name and Address	Work to Be Performed
The Soco Group, Inc. P.O. Box 939051 San Diego, CA 92193	Hauling Fuels
Mike Roche, Inc. P.O. Box 1176 Cudahy, CA 90201	Hauling Fuels
Elite Fuels Transportation 2092 Van Dell Road Riverside, CA 92509	Hauling Fuels
Challenger Petroleum 223 Erie Street Pomona, CA 91768	Hauling Fuels
American Oil Transportation 1115 E. Tehachapi Dr. Long Beach, CA 90807	Hauling Fuels
Infinity Tank Lines 14385 Dartmoore Ave. Norwalk, CA 90650	Hauling Fuels
Mohsen Transportation 3123 Mission Ave. Oceanside, CA 92058	Hauling Fuels
Dion & Sons 1543 W. 16 <sup>th</sup> Street Long Beach, CA 90813	Hauling Fuels
Impact Energy Transport 550 LA Mancha Place Hemet, CA 92543	Hauling Fuels
Vista Energy Transport 6153 Fairmount Ave. Ste. 204 San Diego, CA 92120	Hauling Fuels
Kenan Advantage Group, Inc. 4366 Mt. Pleasant Street, NW North Canton, OH 44720	Hauling Fuels

**14. INDEPENDENT CONTRACTOR**

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

such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.

## **15. INSURANCE**

### **A. INSURANCE REQUIREMENTS**

#### **1) General Requirements for Contractor**

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

#### **2) Deductibles or Self-Insured Retention (SIR)**

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

#### **3) Other Insurance Provisions**

##### **a. Commercial General Liability and Automobile Liability**

Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products and completed operations liability, personal and advertising injury covering claims which may arise from or out of Contractor's performance of its obligations hereunder and if Contractor's vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then Contractor shall maintain liability insurance for all owned, non-owned or hired vehicles so used. Policy shall name Omnitrans, its officers, officials, employees, agents and volunteers as additional insured as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations of the scope of protection afforded Omnitrans, its officers, officials, employees, agents, and volunteers.

1. For any claims related to this project, Contractor's insurance coverage shall be primary insurance as respects Omnitrans, its officers, officials, employees, agents, and volunteers. Any insurance and/or deductibles and/or self-insured retentions or

self-insured programs maintained by Omnitrans, its officers, officials, employees, agents, and volunteers shall be excess of Contractor's insurance and shall not be construed as contributory.

2. Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to Omnitrans.

**b. Workers' Compensation**

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

**c. Care, Custody, and Control**

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

**4) Acceptability of Insurers**

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

**5) Verification of Coverage**

- a. Contractor shall furnish Omnitrans with original endorsements affecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All insurance certificates and endorsements are to be received and approved by Omnitrans before work commences.
- b. As an alternative, Contractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.
- c. In lieu of purchasing insurance and providing original endorsements and or certificates of insurance, the Contractor may provide proof of self-insurance; such proof must be to the satisfaction of Omnitrans.

6) **Subcontractors**

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

7) **Notification of Terminated Insurance**

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

B. **MINIMUM INSURANCE COVERAGE**

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

- 1)  **Commercial General Liability including Products/Completed Operations:** \$1,000,000; per occurrence for bodily and property damage liability and \$2,000,000 aggregate; *Omnitrans named and endorsed as an Additional Insured.*
- 2)  **Automobile Liability:** \$1,000,000; per occurrence for bodily and property damage liability and aggregate; *Omnitrans named and endorsed as an Additional Insured.*
- 3)  **Errors and Omissions Liability:** \$1,000,000; combined single limit bodily and property damage liability per occurrence and \$3,000,000 aggregate or,
- 4)  **Professional Liability:** \$1,000,000; per occurrence and aggregate.
- 5)  **Workers' Compensation:** statutory limits or,
- 6)  **Self Insurance Program:** a State Approved program in an amount and form that meets all applicable requirements of the Labor Code of the State of California.
- 7)  **Employer's Liability:** \$1,000,000; per occurrence.
- 8)  **Environmental Liability:** \$1,000,000; per occurrence and aggregate; *Omnitrans named and endorsed as an Additional Insured.*
- 9)  **Umbrella Policy:** \$4,000,000; per occurrence and aggregate Additional coverage for the above policies, *Omnitrans Additional Insured.*

- 10)  All drivers making deliveries of products specified on this solicitation shall have Hazardous Materials Endorsements on their Commercial Drivers License, and such other Endorsements as may be required by relevant laws and/or regulations.

## **16. INDEMNITY**

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

## **17. REVISIONS IN SCOPE OF WORK**

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

## **18. RIGHTS IN TECHNICAL DATA**

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

## **19. OWNERSHIP OF REPORTS AND DOCUMENTS**

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

## **20. OWNERSHIP RIGHTS**

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

## **21. WORK FOR HIRE**

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

## **22. SUBMITTAL OF CLAIMS BY CONTRACTOR**

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

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

## **23. EQUAL OPPORTUNITY**

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

## **24. STANDARD OF PERFORMANCE**

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

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

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

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

**26. DISQUALIFYING POLITICAL CONTRIBUTIONS**

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

**27. COMPLIANCE WITH LAW**

- A. CONTRACTOR shall familiarize itself with and perform the Work required under this Agreement in conformity with requirements and standards of OMNITRANS, municipal and public agencies, public and private utilities, special districts, and railroad agencies whose facilities and work may be affected by Work under this Agreement. CONTRACTOR shall also comply with all Federal, state and local laws and ordinances.
- B. Government regulations that directly affect the CONTRACTOR'S performance of this contract and unforeseen impacts, which neither party could have contemplated at the onset of the contract and have an unconscionable impact on the CONTRACTOR may be given special pricing consideration. The

parties, in good faith, shall review established rates and may adopt any mutually agreed new rates, which shall only be effective as agreed upon by the parties. Thorough documentation including all cost elements is required to support the Contractor's claim to any relief under this clause.

## **28. COMPLIANCE WITH LOBBYING POLICIES**

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

## **29. PUBLIC RECORDS ACT**

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

**30. WAIVER/INVALIDITY**

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

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

**31. FORCE MAJEURE**

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

**32. CONFIDENTIALITY**

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

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

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

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

**34. GOVERNING LAW**

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

**35. MODIFICATIONS TO AGREEMENT**

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

**36. LICENSING, PERMITS AND INSPECTION COSTS**

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

**37. PRECEDENCE**

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement, and any and all of its Amendments, Appendices, Exhibits and Attachments; (2) provisions of IFB-STS19-61, Diesel and Unleaded Fuels and any and all of its Addenda, Appendices, Exhibits and Attachments; and (3) CONTRACTOR's bid dated April 15, 2019 and its Appendices, Exhibits, Attachments.

**38. ENTIRE AGREEMENT**

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

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

OMNITRANS

MERRIMAC PETROLEUM INC. DBA  
MERRIMAC ENERGY GROUP

\_\_\_\_\_  
P. Scott Graham  
CEO/General Manager

\_\_\_\_\_  
Mary Hazelrigg  
President

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Federal Tax I.D. No. 77-018904

CM\_\_\_\_\_

ATTACHMENT A – SCOPE OF WORK  
STS19-71  
DIESEL AND UNLEADED FUEL

**I. INTRODUCTION**

- A. Contractor shall provide and deliver diesel and unleaded fuels to the following Omnitrans locations:
- East Valley Facility – (1700 West Fifth Street, San Bernardino, CA 92411)
  - West Valley Facility – (4748 Arrow Highway, Montclair, CA 91763)
  - I Street Paratransit Facility (234 South “I” Street, San Bernardino, CA 92411)
- B. Omnitrans operates a fleet of 67 support vehicles which require unleaded gasoline. The split between the East and West Valley facilities is approximately 75% of the fleet at the Omnitrans’ East Valley facility (San Bernardino) and 25% at the West Valley facility (Montclair).
- C. Minimal diesel fuel is required for the operation and testing of back-up generators.
- D. Omnitrans operates 42 gasoline powered Paratransit vehicles and 6 support vehicles. CNG fuel is not a part of this award.

**II. GENERAL**

- A. Omnitrans reserves the right to add or delete facilities within Omnitrans’ service area, as needed, under the pricing terms established herein.
- B. Contractor shall provide and deliver fuel to Omnitrans’ designated locations on an as-needed basis, or as required by Omnitrans’ designated purchasing agent, and deliver fuel in a timely manner, ensuring that Omnitrans is supplied with sufficient fuel reserves, as required.
- C. Contractor may be required to work with Omnitrans’ designated fuel purchasing agent in order to maximize cost efficiencies based upon a ‘flexible’ fuel delivery schedule.
- D. Contractor shall furnish all trucks, trailers, off-loading hose(s), tools, equipment, resources, apparatus, facilities, transportation, labor and materials necessary to furnish the services described herein.
- E. Contractor must provide Omnitrans with proof of compliance, upon request, of relevant local, state, and federal laws/regulations, and contractor must notify Omnitrans of any changes, updates, amendments, and modifications in relevant regulations, laws, statutes and policies.
- F. Contractor shall notify Omnitrans Project Manager prior to any delivery of a fuel that has been reformulated to meet a new regulatory requirement during the life of this contract or a required component of the fuel which allowed the fuel to meet the definition of a formulated gasoline has been changed for any reason. A new safety data sheet (SDS) shall be provided to Omnitrans’ Project Manager at the time of delivery of this new fuel to allow Omnitrans’ Safety and Security Department to update the master SDS file. The preferred means of update is electronic, but if not available, a paper SDS is acceptable. The United States Environmental Protection Agency (EPA) defines reformulated gasoline (RFG) as a gasoline blended to burn more cleanly than conventional gasoline and to reduce smog-forming and toxic pollutants in the air we breathe.
- G. It is the policy of Omnitrans to periodically submit samples of fuel to an independent laboratory for analysis. This is done to verify that the product supplied continues to

ATTACHMENT A – SCOPE OF WORK

STS19-71

DIESEL AND UNLEADED FUEL

meet these specifications. This practice does not, in any manner, relieve the supplier of its responsibility to ensure that the specifications are continually upheld.

- H. Contractor shall exercise caution in making deliveries of fuel of the proper grade and to the proper storage tanks.
- I. In the event an improper grade of fuel is delivered, or in the event of fuel being delivered into the wrong storage tank causing the existing fuel to become contaminated; Contractor shall, at its own expense, dispose of and replace the contaminated product, and clean the affected storage tank(s), on a timely basis so as not to interrupt service.
- J. The fuel delivery hours at East and West Valley locations will be between 7 a.m. and 3 p.m. and between 5:00 a.m. and 9:30 p.m. at the "T" Street facility, seven day a week except holidays.

Contractor must address and coordinate the scheduling of fuel deliveries with Omnitrans staff in order to accommodate Omnitrans' holiday schedule.

Omnitrans does not operate on any of the following national holidays: Labor Day, Memorial Day, Independence Day, Thanksgiving, Christmas, and New Year's Day.

- K. Availability of product is to be within 24 hours of each order date.
- L. All freight costs are included in the awarded price as the terms shall be free on board (F.O.B.) Omnitrans.
- M. Contractor shall assume full responsibility for providing tankers or transportation containers suitable for delivery of the fuel to the appropriate Omnitrans bulk storage tank(s).
  - 1. Contractor shall be responsible for unloading fuel into Omnitrans' bulk storage tanks and providing trained personnel capable of performing the unloading of fuel without assistance from Omnitrans personnel.
  - 2. All fuel tanker trucks making deliveries shall be properly certified by the State of California including but not limited to Vehicle Tank Measurement Certificates, and in accordance with Federal Department of Transportation regulations, policies, and procedures.
  - 3. If requested, Contractor shall provide copies of certificates within three (3) days after notification is received from a designated Omnitrans representative.
  - 4. All drivers making deliveries of fuel to Omnitrans shall have hazardous materials endorsements on their commercial driver's license, and any other endorsements as required by relevant laws and/or regulations.
  - 5. Prior to the first delivery of fuel, the Contractor shall provide Omnitrans' Project Manager, with an SDS for the subject fuel.
  - 6. Contractor, its agents or employees, must notify Omnitrans' maintenance supervisor, or his/her designee, upon delivery of fuel.
  - 7. Contractor agrees to notify Omnitrans' designated representative if, at any time, it appears that the deliveries may be impacted by any foreseen circumstance. Such notification shall include the reasons for any possible delays, and steps being taken by Contractor to remedy any such problem(s).

ATTACHMENT A – SCOPE OF WORK

STS19-71

DIESEL AND UNLEADED FUEL

Nothing herein shall be interpreted as waiving remedies otherwise available to Omnitrans.

- N. A copy of the OPIS Rack Price of the daily unblended average for the date of the fuel delivery shall be submitted to Omnitrans part of the delivery invoice.

**III. FUEL REQUIREMENTS**

**A. 87 Octane Unleaded Regular gasoline**

1. Octane Number: 87 minimum (Research Method plus Manufacturer Method divided by two).
2. Any regulatory changes to this type of product shall automatically apply to the commodities described herein.
3. Estimated Annual Usage:

<b>East Valley Facility</b>	<b>Est. Annual Usage (gals)</b>
Storage Capacity: One 10,000 Gallon Tank (Underground)	
Average delivery: 6,000 gallons, approx. once every 3-4 months	
July 1, 2019 - June 30, 2020	25,000
July 1, 2020 - June 30, 2021	25,000
July 1, 2021 - June 30, 2022	25,000
July 1, 2022 - June 30, 2023	26,150
July 1, 2023 - June 30, 2024	27,450

ATTACHMENT A – SCOPE OF WORK  
 STS19-71  
 DIESEL AND UNLEADED FUEL

<b>West Valley Facility</b>	<b>Est. Annual Usage (gals)</b>
Storage Capacity: One 10,000-gallon tank (Underground)	
Average delivery: 5,000 gallons; approximately once every 3-4 months	
July 1, 2019 - June 30, 2020	13,000
July 1, 2020 - June 30, 2021	13,000
July 1, 2021 - June 30, 2022	13,000
July 1, 2022 - June 30, 2023	13,650
July 1, 2023 - June 30, 2024	14,300

<b>“I” Street Facility*</b>	<b>Est. Annual Usage (gals)</b>
Storage Capacity: Two 4,000-gallon tanks (Underground)	
Average delivery: 5,900 gallons, approximately every 9-12 days initially	
July 1, 2019 - June 30, 2020	229,000
July 1, 2020 - June 30, 2021	137,000
July 1, 2021 - June 30, 2022	60,000
July 1, 2022 - June 30, 2023	0
July 1, 2023 - June 30, 2024	0

\*Omnitrans is in the process of converting to a 100% CNG powered fleet. The timeline of the transition and annual unleaded fuel consumption is estimated based on the best available information at this time. The transition may face unexpected delays or be expedited based on available replacement vehicle funding.

**B. Diesel Fuel**

1. Contractors price is quoted for Grade No. 2, ultra-low sulfur (<15ppm) diesel fuel which must, at a minimum, meet ASTM D-975 standards with a minimum Cetane Number of 45, under the terms of section 1956.2(f), Title 13 of the California Code of Regulations. Fuel shall be completely distilled (98% by volume recovery when subjected to ASTM D-86 distillation).
2. Diesel fuel type shall be Red Dye.
3. Only California Compliant Diesel Fuel shall be supplied to the Agency to ensure regulatory compliance with the California Air Resources Board Exhaust Emissions Standards and Test Procedures.
4. Omnitrans shall inspect each Bill of Lading to ensure that non-blended No. 2 fuel is being provided.

ATTACHMENT A – SCOPE OF WORK

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DIESEL AND UNLEADED FUEL

5. It is estimated that the need for diesel fuel to be once per year to top the tanks however, if circumstances cause extended use of the generators additional deliveries may be ordered.
  
6. The State Board of Equalization, Chapter 3 Exemptions, Section 60101(c) states: “No person shall operate or maintain a motor vehicle on any public highway in this state with dyed diesel fuel in the fuel supply tank. This subdivision does not apply to uses of dyed diesel fuel on the highway that are lawful under the Internal Revenue Code or regulations promulgated thereunder, if the person is registered as a qualified highway vehicle operator, exempt bus operator, or government entity”.

<b>East Valley Facility</b>	<b>Est. Annual Usage (gals)</b>
Storage Capacity: 1-1000 gallon Above Ground Storage (AST) 1-200 Gallon Generator Sub-Base Fuel Tank	
July 1, 2019 - June 30, 2020	300
July 1, 2020 - June 30, 2021	300
July 1, 2021 - June 30, 2022	300
July 1, 2022 - June 30, 2023	300
July 1, 2023 - June 30, 2024	300

<b>West Valley Facility</b>	<b>Est. Annual Usage (gals)</b>
Storage Capacity: 1- 500-gallon UST for generator 1- 200-gallon generator Sub-base Fuel Tank.	
July 1, 2019 - June 30, 2020	300
July 1, 2020 - June 30, 2021	300
July 1, 2021 - June 30, 2022	300
July 1, 2022 - June 30, 2023	300
July 1, 2023 - June 30, 2024	300

ATTACHMENT A – SCOPE OF WORK  
 STS19-71  
 DIESEL AND UNLEADED FUEL

“I” Street Facility	Est. Annual Usage (gals)
Storage Capacity: 215 Gallon Generator Sub-base Fuel Tank	
July 1, 2019 - June 30, 2020	100
July 1, 2020 - June 30, 2021	100
July 1, 2021 - June 30, 2022	100
July 1, 2022 - June 30, 2023	100
July 1, 2023 - June 30, 2024	100

**IV. INSPECTION OF SERVICES**

- A. All services provided and materials utilized in the performance of such services, shall be subject to inspection by Omnitrans, or its designee, to the extent practical at all times and places during the term of this Agreement.
  - 1. All inspections made by Omnitrans, or its designee, shall be made in such a manner as not to unduly delay the Contractor’s delivery and/or dispensing of fuel.

**V. PRICING**

- A. The Rack Price charged to Omnitrans must be based on the OPIS daily unbranded average. Include a separate sheet with a line-item listing all applicable taxes and fees for each commodity.
- B. Contractor shall guarantee to maintain the proposed effective margin and delivery costs for the duration of the contract.
- C. The OPIS Rack Price shall be based on the Los Angeles and Colton Racks and invoices submitted to Omnitrans shall reflect the lowest aggregate price. A copy of the OPIS Report of the delivery date shall be submitted with invoices.
- D. Contractors per gallon pricing information for fuel must include:
  - 1. Fixed margin/discount,
  - 2. Fixed delivery charge per gallon.
- E. Contract award shall be based upon the lowest aggregate price, fixed delivery charge and fixed margin (profit/discount).
- F. Prices shall include all transportation costs, including those associated with loading, transporting and unloading product from Contractor’s loading facility to Omnitrans’ storage tanks.
- G. **Taxes / Fees.** Purchases by Omnitrans are subject to applicable State and local sales taxes. However, Omnitrans is exempt from the payment of Federal Excise and Transportation Taxes.
  - 1) **Applicable Taxes.** At the current time, the following summarizes the taxes applied to unleaded fuel and Omnitrans' tax status regarding each:

## ATTACHMENT A – SCOPE OF WORK

STS19-71

### DIESEL AND UNLEADED FUEL

- a. **Federal Excise Taxes.** Omnitrans *is* exempt from Federal Excise Taxes under the Internal Revenue Code when purchasing fuel for use in revenue vehicles only. An "Exemption Certificate for State and Local Governments" needs to be completed and signed by either the General Manager or the Director of Finance for each vendor supplying these tax-exempt items.
  - b. **California Use Fuel Taxes.** Omnitrans *is* exempt from California Use Fuel Taxes under Section 8655 of the California Revenue and Taxation Code, Part (b) (1) for all vehicles. Exempt entities are liable for a one-cent (\$0.01) per gallon tax payable to the California State Board of Equalization. A "User Exemption Certificate--California Use Fuel Taxes" needs to be completed and signed by either the CEO/General Manager or the Director of Finance for each vendor supplying these tax-exempt items.
  - c. **California Motor Vehicle Fuel License Tax.** Omnitrans *is not* exempt from the California Motor Vehicle Fuel License Tax, under Section 7301 et seq. of the California Revenue and Taxation Code. This tax is applied to all "gasoline, natural gasoline, blends of gasoline and alcohol containing more than 15% gasoline, and any inflammable liquid used to propel". This tax is paid directly to the vendor.
  - d. **California State Sales Tax.** Omnitrans *is not* exempt from the California State Sales Tax.
  - e. **Leaking Underground Storage Tank Tax.** Omnitrans *is not* exempt from the Leaking Underground Storage Tank Tax.
- 2) **Applicable Fees.** At the current time, the following summarizes the fees applied to diesel and/or unleaded fuel and Omnitrans' tax status regarding each:
1. **Childhood Lead Fee.** Omnitrans *is not* exempt from Childhood Lead Fee. This fee is paid directly to the vendor.
  2. **California Oil Spill Fee.** Omnitrans *is not* exempt from the California Oil Spill Fee. This fee is applied to both diesel and gasoline and is paid directly to the vendor.
  3. **Federal Environmental Recovery Fee.** Omnitrans *is not* exempt from Federal Environmental Recovery Fee. This fee is applied to both diesel and gasoline and is paid directly to the vendor.

## VI. OMNITRANS' RESPONSIBILITIES

Omnitrans' shall, at all times, provide reasonable access to the fueling facility, and shall permit the unloading of contractor trucks at the delivery locations without undue delay.

## VII. EMPLOYEE HAZARDS

- A. 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.

ATTACHMENT A – SCOPE OF WORK

STS19-71

DIESEL AND UNLEADED FUEL

- B. All Hazardous waste must be handled, collected, stored and disposed of in accordance with federal, state and local environmental compliance regulations.

**VIII. CONTRACTOR SAFETY**

- A. Contractor shall check in at Omnitrans' East and West Guard Stations any time entry onto Omnitrans' property is made, and at I Street Guard Station after 5:00 p.m.
- B. Contractor shall follow the direction given by the security guard to include traffic patterns and speed limits as the parking lots have a controlled traffic pattern for the safety of all individuals and property.
- C. Contractor shall wear a reflective vest when outside of the vehicle and near vehicle traffic.
- D. Contractor shall check volume of fuel in tank to be filled prior to connecting tanker hoses to tank.
- E. Contractor shall calculate if sufficient volume remains in the tank to hold the fuel scheduled for delivery.
- F. Contractor shall control the fuel transfer area to eliminate unnecessary access during a delivery and to prevent distraction of the driver during the fuel transfer process.
- G. Contractor shall physically watch/monitor fuel transfer from tanker truck to fuel tank while staying near an emergency shut-off switch.
- H. Contractor shall wear proper personnel protective equipment sufficient to be able to respond to a small fuel release, if necessary, during the transfer operation.
- I. In the event of an accidental spill, driver shall report to Omnitrans' Project Manager, Security Office, or Safety Department.
- J. Contractor shall be responsible to prevent migration of fuel spills that occur during a fuel transfer to sensitive receptors as much as possible while doing so in a safe manner.
- K. Contractor shall be responsible for any costs of clean-up associated with supplier spill including, be not limited to HazMat contractor, labeling, transporting and disposal of wastes. Contractor shall have available to respond in a timely manner a Haz Mat contractor for large spills which are beyond their ability to safety cleanup or they do not have sufficient materials or equipment on site to safely cleanup.

ATTACHMENT B - PRICING  
 STS19-61  
 DIESEL AND UNLEADED FUELS

	Discount Per Gallon
Unleaded Fuel 6,000 + Gallons	
LA RACK	-0.1490
COLTON RACK	-0.1690
Unleaded Fuel 2,000 - 5999 Gallons	
LA RACK	-0.1090
COLTON RACK	-0.1290
Unleaded Fuel 1,000 - 2499 Gallons	
LA RACK	-0.1490
COLTON RACK	-0.1690
Diesel Fuel	
LA RACK	0.11
COLTON RACK	0.11
Demurrage	18.00



**SUBJECT**  
**PROHIBITING WEAPONS IN THE WORKPLACE**

**APPROVED BY OMNITRANS**  
**BOARD OF DIRECTORS**

DATE: June 7, 2017

**I. Purpose**

It is the policy of Omnitrans to maintain a work environment that is safe for all persons, including the community, and conducive to attaining high work standards. To achieve these objectives, the Agency prohibits the possession of firearms and weapons in the work place, regardless of any license or permit that an individual may have which otherwise authorizes the individual to carry firearms or weapons.

It is illegal and a criminal violation to possess weapons in public buildings (California Penal Code 171b and 171.7).

**II. Scope**

This policy applies to all Omnitrans employees, including but not limited to staffing agency workers and contractors working for or with the Agency at any time, regardless of whether the Agency is the actual employer.

Possession of firearms and weapons is prohibited at all Omnitrans' offices, parking lots, agency vehicles and job sites, and in all Agency vehicles.

The following person/s are exempt from this policy as stated: a guard of a contract carrier operating an armored vehicle, and any law enforcement officer who is carrying out official duties engaged in protecting and preserving property or life within the scope of his or her employment.

Omnitrans will strictly enforce this policy. Violation of this policy will result in immediate disciplinary action, up to and including termination.

**III. Procedure**

**A. COMMUNICATION OF POLICY**

(a) Each employee of the Agency shall receive a copy of this policy at the time of his/her hire and shall sign a copy of the acknowledgment. Employees who were employed before the effective date of this policy shall also receive a copy of this policy and shall sign a copy of the acknowledgment. A copy of the signed acknowledgment and of all new and revised policies throughout the employee's employment shall be maintained in each employee's personnel file.

(b) A copy of this policy shall be attached to each contractor's contract, and shall become a part of its contract. The contractor shall be responsible for communicating this policy to its employees and any subcontractors to which the contractor sublets any portion of its contract.



**SUBJECT  
PROHIBITING WEAPONS IN THE WORKPLACE**

**APPROVED BY OMNITRANS  
BOARD OF DIRECTORS**

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**B. PROHIBITED CONDUCT**

(a) The transportation of firearms or weapons in Agency vehicles is prohibited.

This includes but is not limited to:

- (1) to and from work,
- (2) when conducting Agency business,
- (3) at all times in Agency-owned or leased vehicles.

(b) The possession or carrying of permitted and non-permitted firearms or weapons while at Agency buildings, parking lots, sponsored events, and job sites.

(c) Exception: Power actuated tools which are manufactured for the use of fastening building materials and sanctioned tools for the purpose of performing Agency job duties are not subject to this policy.

**C. SEARCH**

(a) Omnitrans reserves the right to conduct reasonable, unannounced searches of Agency premises and personal searches of employees and others while entering, on, or leaving Agency premises, including, but not limited to, personal effects, vehicles, lockers, desks, tool boxes, clothing, meal containers, and baggage. Searches will be conducted when the Agency has a reasonable suspicion to believe that a particular employee may be in possession of a weapon or firearm.

(b) "Reasonable suspicion" is defined as a suspicion that is based on specific personal observations such as an employee's manner, disposition, behavior, speech, information provided to management by an employee, by law enforcement officials, by a security service, or by other persons believed to be reliable, or a suspicion that is based on other surrounding circumstances.

(c) Individuals refusing to allow an inspection will not be detained or forced to submit to the inspection. Refusal violates Agency policy and constitutes an act of insubordination constituting disciplinary action, up to and including separation of the employment relationship. Non-employees who refuse to allow an inspection will not be permitted on Agency premises and will be required to immediately leave the premises. Employees will be relieved of all duties while pending investigation.

**D. DISCIPLINE**

(a) Violations of any portion of this policy will subject the employee to discipline,



**SUBJECT  
PROHIBITING WEAPONS IN THE WORKPLACE**

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BOARD OF DIRECTORS**

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up to and including separation of employment.

(b) Violations by a contractor's employee or subcontractor of any portion of this policy may constitute a breach of contract and regardless will mandate the immediate removal of the contractor's employee from Agency premises, prohibition against the individual accessing Agency premises in the future, and may also constitute a breach of contract.

**E. REPORT OF VIOLATIONS**

**1. Employee Violations**

Employees are required to report violations of this policy without regard to the relationship between the individual who initiates the prohibited behavior and the individual reporting it. An employee who believes that another employee may be in violation of this policy must report the alleged violation to the employee's manager or supervisor, the department director, security, or the appropriate departmental Human Resources representative.

Departments are responsible for implementing this policy. The Agency will promptly investigate allegations of violations of this policy.

Omnitrans reserves the right to authorize searches for prohibited weapons on its property when a violation is reported or when probable cause or reasonable suspicion is present consistent with law.

Employees should be aware that there is no reasonable expectation of privacy with respect to weapons in the workplace. The Agency's right to conduct searches includes, but is not limited to, such areas and items as lockers, desks, workstations, offices, purses, briefcases, bags, toolboxes, and lunch bags.

Searches of the employee's work area and belongings, as described above, may be conducted by the Security & Emergency Preparedness Coordinator, or designee. Searches of all types, including surrounding agency property, personal property and the employee may be conducted by law enforcement in accordance with law should reasonable suspicion be present. Any weapon found in violation of this policy may be confiscated. Refusal to permit a search may result in discipline, up to and including separation.

**2. Visitor Violations**

Visitors are not allowed to carry a weapon on the premises. Any visitor carrying a weapon into a posted no-carry agency facility is creating an elevated risk to security and safety that warrants a response leading to compliance with the law. If the visitor



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poses an immediate risk to security or safety, law enforcement shall be notified immediately by calling 9-911. The visitor shall be considered an immediate risk to safety and security if he/she is acting in an aggressive, belligerent, confrontational, suspicious or in an otherwise questionable manner while carrying a weapon.

**F. FALSE REPORTS**

Employees making intentionally false and malicious complaints of weapons in the workplace will be subject to disciplinary action, up to and including separation and/or will be reported to the proper authorities as appropriate.

**G. ROLES AND RESPONSIBILITIES**

Employees are responsible for understanding and complying with the Policy Prohibiting Weapons in the Workplace.

Whenever there is a question as to whether an instrument, article or substance is considered a weapon in violation of this policy, it is the employee's responsibility to seek clarification. Employees seeking clarification should direct their questions to the agency's Security & Emergency Preparedness Coordinator at 909-379-7117 prior to bringing the item(s) to Omnitrans work sites and events, as well as agency-owned or leased facilities or vehicles.

**H. SAFETY FIRST**

In applying this policy, no employee shall take any action that will risk his or her own safety or the safety of other individuals. No attempt should ever be made by an employee to restrain or forcibly evict an armed person from agency premises.

An individual's continued non-compliance after being properly informed of the law (California Penal Code 171 (b)) will result in notification to law enforcement and discipline, up to and including separation of employment. Employees should notify security immediately.

An employee who feels an imminent danger to his or her own safety or the safety or security of others, should avoid any interaction with the individual. Immediately contact law enforcement by calling 9-911 and security at 909-379-7117.

**I. ANTI-RETALIATION PROVISION**

Omnitrans strictly prohibits any retaliation against an employee who has reported a possible breach of policy. If an employee feels that he or she has been subjected to retaliation in violation of this policy, the employee must immediately report it to his or her supervisor or other designated Human Resources representative.



SUBJECT  
**PROHIBITING WEAPONS IN THE WORKPLACE**

APPROVED BY OMNITRANS  
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DATE: June 7, 2017

**J. DEFINITIONS**

1. **Firearm or weapon includes, but is not limited to:** A weapon, a pistol or rifle, whether loaded or unloaded, capable of firing a projectile and using an explosive as a propellant.

- A firearm, whether loaded or unloaded, from which a shot may be discharged including but not limited to handguns, pistols, revolvers, shotguns, rifles, and bb guns;
- A gun that can discharge a shot or a projectile by means of an explosive or gas, or compressed air;
- A device designed to be used as a weapon, from which can be expelled a projectile by the force of any explosion or force of combustion;
- Any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive;
- Any destructive device;
- Any device designed as a weapon and capable of producing great bodily harm, including but not limited to, stun guns, stun batons;
- An electric weapon such as a taser gun;
- Any combustible or flammable liquid, or other substance, device, or instrumentality that, in a manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm, or any fire that is used to produce death or great bodily harm;
- Any knife that is carried with intention or calculation to produce death or great bodily harm having a blade length in excess of four (4) inches, the blade of which is fixed or is capable of being fixed in an unguarded position by the use of one or two hands. Switchblades are specifically prohibited. (Knives intended to be used as eating utensils, and stored or maintained in office kitchens or lunchrooms do not represent a violation of this policy.)

2. **Office:** All permanent facilities, all mobile facilities, all leased facilities, and any facility designated as an office by the agency.

3. **Parking lot:** All lots at permanent facility, park and rides, lots at project sites, any lot that the agency designates as a parking lot that is not at a permanent facility or project site.

4. **Agency vehicle:** All agency-owned buses/vehicles, all agency-leased buses/vehicles, all agency-rental buses/vehicles, and all personal vehicles for which the owner receives a vehicle allowance, all personal vehicles where the owner receives reimbursement for mileage.



**Omnitrans**

**PERSONNEL POLICY MANUAL**

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SUBJECT  
**PROHIBITING WEAPONS IN THE WORKPLACE**

APPROVED BY OMNITRANS  
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5. **Search:** To examine in order to find something concealed.
6. **Job sites:** Any and all locations where the agency conducts business.

SIGNS

1. At each entrance to buildings, parking lots, and project sites, a sign shall be posted in a location that is conspicuous to all who could enter a building, parking lot, or project site.
2. Signs shall have wording or pictogram that prohibits firearms, weapons and give notice of video surveillance. Signs shall be vandalism resistant and of the quality that they will not fade due to the elements.

ATTACHMENT D

**1. LIQUIDATED DAMAGES**

- A. Omnitrans maintains a three-day purchasing lead-time to ensure sufficient fuel for continuous operation of its fleet. Contractor's failure to deliver per the requirements stated in the Agreement, and resulting in Omnitrans running out of fuel at its storage facility, shall result in liquidated damages being assessed against the fuel supplier.
- B. These damages shall be deducted from any monies due, or which may thereafter become due, to Contractor under this Contract.
- C. Force Majeure applies:
  - 1) When it is beyond the control of Contractor to provide the service requirements contained in this contract, the Liquidated Damages will be prorated accordingly.
  - 2) Omnitrans shall be the sole judge of the applicability of the Force Majeure clause as relates to Liquidated Damages.
- D. Specific Daily Liquidated Damages Amount
  - 1) In the event of any such delay the amount of damage sustained shall be determined by Omnitrans' actual lost revenue and/or incurred expenses, but not to exceed \$250 per day per bus/Access Van.
  - 2) Omnitrans and the Contractor agree that in the event of any such delay, the Contractor shall pay such amounts as liquidated damages and not as a penalty.

**2. DEMURRAGE**

Up to one-hour of "standing time" shall be allowable at no charge for the purpose of unloading. If the Contractor is unable to begin unloading fuel within one hour after the scheduled arrival at an Omnitrans site, due to delays caused by Omnitrans, Contractor may assess demurrage charges. Demurrage charges shall apply in increments of one-quarter (1/4) hours.

AMENDMENT 4  
 TO CONTRACT MNT15-52  
 BETWEEN  
 OMNITRANS  
 AND  
**FASTENAL COMPANY**

*Maintenance, Repair & Operations (MRO) Supplies*

This Unilateral Contract Amendment 4, effective May 1, 2019 is entered into by and between Omnitrans (hereinafter called "Agency") and Fastenal Company (hereinafter called "Vendor").

RECITALS

WHEREAS:

- I. Agency and Vendor entered into Contract MNT15-52 on April 8, 2015;
- II. Agency amended the Contract under Amendment 1 to exercise Option Year 1, extending the contract end date to April 7, 2019, and increase the contract amount by \$197,000 for a new contract not-to-exceed total amount of \$788,000;
- III. Agency amended the Contract under Amendment 2 to increase the contract amount by \$197,000 for a new contract not-to-exceed total amount of \$985,000;
- IV. Agency hereby amends the Contract under Amendment 3 to exercise Option Year 2, extending the contract end date to June 30, 2019; and
- V. Agency hereby amends the Contract under Amendment 4 to extend the contract end date to April 4, 2020 and increase the contract amount by \$150,000 for a new contract not-to-exceed total amount of \$1,135,000.

NOW THEREFORE, in consideration of the forgoing, AGENCY agrees as follows:

- I. Contract Cover Page, Contract Amount, delete in its entirety and replace with:

Contract Amount: Not to Exceed \$1,135,000.

- II. Section 2. **Period of Performance**, delete in its entirety and replace with:

The term of this Agreement shall be from the date of the execution of this Agreement and continue through April 7, 2020, unless terminated as specified in Paragraphs 9 and 10. All applicable indemnification provisions in this Agreement shall remain in effect following the termination of this Agreement.

Omnitrans' election to extend the Agreement beyond the Initial Term shall not diminish its right to terminate the Agreement for Omnitrans' convenience or VENDOR'S default as provided elsewhere in this Agreement.

III. Section 4. **Compensation**, last paragraph, delete in its entirety and replace with:

OMNITRANS' maximum cumulative payment obligation under this Agreement shall not exceed One Million, One Hundred Thirty-Five Thousand Dollars (\$1,135,000) including all amounts payable to VENDOR 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, Agency has caused this Unilateral Contract Amendment 4 to Contract MNT15-52 to be subscribed by its duly authorized officer on its behalf.

OMNITRANS

\_\_\_\_\_  
P. Scott Graham  
CEO/General Manager

Dated: \_\_\_\_\_

CM\_\_\_\_\_