



**AGENDA**  
**EXECUTIVE COMMITTEE MEETING**  
**FRIDAY, AUGUST 3, 2018 – 9:00 A.M.**  
**OMNITRANS**  
**1700 WEST FIFTH STREET**  
**SAN BERNARDINO, CA 92411**

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

**THIS MEETING IS AVAILABLE BY TELECONFERENCE AT THE FOLLOWING LOCATION AND WILL BE CONDUCTED IN ACCORDANCE WITH GOVERNMENT CODE SECTION 54953(B).**

**CITY OF ONTARIO, 303 EAST B STREET, ONTARIO, CA 91764**

**THIS LOCATION IS ACCESSIBLE TO THE PUBLIC AND MEMBERS OF THE PUBLIC MAY ADDRESS THE COMMITTEE FROM THIS TELECONFERENCE LOCATION**

**A. CALL TO ORDER**

**B. ANNOUNCEMENTS/PRESENTATIONS**

1. Next Committee Meeting: September 7, 2018 – 9:00 a.m.  
Omnitrans Metro Facility

**C. COMMUNICATIONS FROM THE PUBLIC**

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

**D. POSSIBLE CONFLICT OF INTEREST ISSUES**

N/A

**E. DISCUSSION ITEMS**

- |   |    |
|---|----|
| 1. Approve Executive Committee Minutes – July 6, 2018   | 3  |
| 2. Recommend the Board of Directors Authorize the CEO/General Manager to Continue to Negotiate and Execute the Three-Party Agreement between Omnitrans, San Bernardino County Transportation Authority (SBCTA), and Southern California Regional Rail Authority (SCRRA) as Necessary for the Implementation of the Redlands Passenger Rail Service – <i>Trischelle Baysden &amp; Haviva Shane</i> | 7  |
| 3. Receive and File, Update on Recent California Department of Industrial Relations, Division of Occupational Safety Health Administration (CalOSHA) Inspection and Violations – <i>P. Scott Graham</i>   | 13 |
| 4. CEO/General Manager’s Report – <i>P. Scott Graham</i>  | 15 |

**F. BOARD BUSINESS**

There is no Closed Session scheduled.



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**G. REMARKS AND ANNOUNCEMENTS**

**H. ADJOURNMENT**



#### **D. POSSIBLE CONFLICT OF INTEREST ISSUES**

There were no Conflict of Interest Issues.

Chairman Dailey announced that Item F1 would be moved up on the agenda.

#### **F. CLOSED SESSION**

1. Conference with Labor Negotiator P. Scott Graham Concerning Labor Negotiations with Amalgamated Transit Union (ATU), pursuant to Government Code Section 54957.6

The Committee adjourned into Closed Session 9:05 a.m.

The Committee reconvened at 9:19 a.m. with no reportable action.

#### **E. DISCUSSION ITEMS**

1. Approve Executive Committee Minutes – June 1, 2018

M/S (Lilburn/Spagnolo) that approved the Executive Committee Minutes of June 1, 2018. Motion was passed unanimously by Members present.

2. Review and Provide Recommendation to the Board of Directors Regarding Lamar Agreement Restriction on Political Advertisements

General Counsel, Haviva Shane, provided some background by stating that an issue was raised regarding political advertisement on Omnitrans' buses due a recent request by a political candidate that was denied by Lamar, the advertising vendor for the Agency. Historically, Omnitrans permitted political campaign advertisements on buses and shelters; however, in the most recent contract renewal with Lamar (approved by the Board in November 2017), a restriction was included prohibiting political advertising. Due to a possible oversight, the contract change was not pointed out to the Board prior to their approval; therefore, the Board and other elected officials were not aware of the change.

Furthermore, Ms. Shane stated that the Board could request that the Lamar Agreement be amended to allow candidate political advertising or may decide to maintain the Agreement as approved.

Ms. Shane read some comments submitted in writing by Member Wapner prior to the meeting which stated the following:

“My comments would be that while I can support the restrictions on political advertising, I believe since there was confusion among Board Members, Staff and community members, my recommendation would be to allow previously approved advertising for the November 2018 election, with the new restrictions effective January 1, 2019.”

Member Lilburn referred to the Agreement with Lamar and felt that the language related to political advertisement could be more specific and suggested that the language state “political candidates,” rather than “political information.”

Member Spagnolo felt that advertising, whether political or not, is considered to be free speech. He also mentioned that he was not aware of any issues related to political campaign advertising in the past.

Ms. Shane explained that agencies can limit use of transit property to commercial advertising only without violating free speech laws. She noted that it is a common practice for transit agencies to restrict political advertising and mentioned Metrolink and North County Transit District (NCTD) to name a few. She stated that should the Board decide to allow political advertising, that the information clearly state “political candidate advertisements” only to avoid any potential legal issues in the future.

Chairman Dailey suggested that Ms. Shane conduct a broader review of the industry practice regarding this issue.

Member Lilburn expressed some concern regarding the public perception of Omnitrans advertising a specific candidate and also mentioned some concern regarding potential vandalism if the candidate is considered to be controversial.

Member Roberts expressed his support of Member Wapner’s suggestion to allow political advertisement for the November 2018 election, with the new restrictions effective January 1, 2019.

CEO/General Manager, P. Scott Graham, felt that allowing political advertising could become problematic in regulating the type of advertising allowed and expressed some concern regarding potential legal implications.

M/S (Lilburn/Dailey) to uphold the existing restriction on political information approved by the Board last November. Opposed by Members Spagnolo and Roberts. Motion failed.

M/S (Spagnolo/Roberts) to grandfather the prior policy for this election for candidate advertisements only and directed staff to look at pros and cons of political candidate advertisement on buses and bus stops. Opposed by Members Dailey and Lilburn. Motion failed.

The Committee did not reach a consensus, therefore recommended that the item be forwarded to the Board for discussion.

3. Recommend to the Board of Directors Proposed Overall Disadvantaged Business Enterprise (DBE) Goal for Federal Transit Administration (FTA) Assisted Contracts (October 1, 2018 – September 30, 2021)

Eugenia Pinheiro, Contracts Manager, provided a brief background on this item as detailed in the staff report.

Chairman Dailey asked for clarification regarding the term disadvantaged and also had some questions regarding the criteria utilized in determining what is considered disadvantaged. He also asked for additional information regarding the DBE goal setting methodology. Ms. Pinheiro provided additional information and addressed his questions.

M/S (Spagnolo/Lilburn) that recommended the Board of Directors adopt the Proposed Overall Triennial Disadvantaged Business Enterprise (DBE) Participation Goal of 1.0% for all Federal Transit Administration (FTA) assisted contracts issued during Federal Fiscal Years (FFYs) 2019-2021 and authorize the CEO/General Manager to submit the goal and all supporting documentation to the FTA. Motion was passed unanimously by Members present.

4. CEO/General Manager's Report

CEO/General Manager, P. Scott Graham reviewed his CEO report.

#### **G. REMARKS AND ANNOUNCEMENTS**

There were no remarks and announcements.

#### **H. ADJOURNMENT**

The Committee adjourned at 10:17 a.m. The next Executive Committee Meeting is scheduled Friday, August 3, 2018, at 9:00 a.m., with location posted on the Omnitrans website and at the Omnitrans San Bernardino Metro Facility.

Prepared by:

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Araceli Barajas, Executive Staff Assistant

ITEM #           E2          

**DATE:** August 3, 2018

**TO:** Board Chair Ron Dailey and Members of the Executive Committee

**THROUGH:** P. Scott Graham, CEO/General Manager

**FROM:** Trischelle Baysden, Director of Rail Operations

**SUBJECT: THREE-PARTY AGREEMENT FOR REDLANDS PASSENGER RAIL SERVICE**

### **FORM MOTION**

Recommend that the Board authorize the CEO/General Manager to continue to negotiate and execute the Operations and Maintenance (O&M) Agreement between Omnitrans, San Bernardino County Transportation Authority (SBCTA), and Southern California Regional Rail Authority (SCRRA) as necessary for the implementation of the Redlands Passenger Rail Service. Upon Board approval from all parties and completion of negotiations, the O&M Agreement will be executed.

### **BACKGROUND**

A three-party O&M Agreement between Omnitrans, SBCTA, and SCRRA is necessary to support the proposed future passenger service and associated operating scenario on the San Gabriel Subdivision between the San Bernardino Transit Center (SBTC) and the University of Redlands. Staff and legal teams from Omnitrans, SBCTA, and SCRRA have been actively negotiating the O&M Agreement since the beginning of the year.

The O&M Agreement addresses the Federal Railroad Administration's (FRA) approved operating scenario wherein SCRRA will dispatch and maintain the right of way, Omnitrans will operate and maintain the Hybrid Rail Equipment, and SCRRA will operate commuter trains. SCRRA will act as the railroad of record, or "host" railroad in the eyes of the FRA and Omnitrans as well as BNSF Railway will operate as "tenant" railroads. SBCTA is the track owner. The service is projected to start in the summer of 2021 with Omnitrans operating Hybrid Rail equipment between SBTC and University of Redlands with intermediate stops. Metrolink will be operating a morning and afternoon express train between Los Angeles Union Station (LAUS) and downtown Redlands.

Negotiations originally commenced with SBCTA in November of 2016, and have been ongoing since that time. The version of the Three-Party O&M Agreement presented to the Executive Committee as part of this agenda item includes provisions that are still subject to final review and approval by the parties (even if they do not appear in redline), and additional changes will likely be made in order to finalize the Agreement.

**CONCLUSION**

Approval of the Three-Party Agreement will enable Omnitrans to move forward with completion and release of the Operations and Vehicle Maintenance Request for Proposal.

PSG:VTB





# THREE-PARTY AGREEMENT FOR REDLANDS PASSENGER RAIL SERVICE

**Trischelle Baysden  
Director of Rail  
August 3, 2018**

## Background

- The extension of the Metrolink San Gabriel (Redlands) Subdivision will be a blended operation with the Arrow trains offering hybrid-rail passenger service throughout the day
- Omnitrans will be a tenant railroad along with the BNSF which provides freight service between the San Bernardino Sante Fe Depot and Tippecanoe Avenue

## Roles and Responsibilities:

OmniTrans	SCRRRA	SBCTA
Operations	Dispatching	Land Owner/Track Owner
Maintenance of Rail Equipment	Maintenance of Way (MOW) <ul style="list-style-type: none"> <li>• Track</li> <li>• Signals</li> <li>• Positive Train Control (PTC)</li> </ul>	Funding Agency
“Tenant Railroad”	Railroad of Record/ “Host Rail Road”	Commissioning Revenue Service
	Provide one round trip/day from Redlands Station to Los Angeles Union Station	

**THANK YOU**

ITEM #           E3          

**DATE:** August 3, 2018

**TO:** Board Chair Ron Dailey and Members of the Executive Committee

**FROM:** P. Scott Graham, CEO/General Manager

**SUBJECT: UPDATE ON RECENT CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS, DIVISION OF OCCUPATIONAL SAFETY HEALTH ADMINISTRATION (Cal/OSHA) INSPECTION AND VIOLATIONS**

### **FORM MOTION**

Receive and file update on the recent Department of Industrial Relations Division of Occupational Safety and Health Administration (OSHA) inspection and violations.

### **BACKGROUND**

On November 17, 2017, California Occupational Safety Health Administration (Cal/OSHA) inspector visited the West Valley facility as the result of an anonymous complaint. The Cal/OSHA inspector was on-site approximately five times evaluating the Agency over the course of the next six months. On May 23, 2018, the Cal/OSHA inspector concluded the investigation by delivery of a "Citation and Notification of Penalty." Cal/OSHA's notice contained seven (7) citations and associated penalties. The Agency was advised that due to their good faith effort in assisting the inspector with his investigations, the original penalties were reduced by 30%. The Agency was required to provide abatement of the citation findings and pay all associated penalties by June 21, 2018.

Immediate and proactive abatement efforts commenced. On June 19, 2018, the CEO/General Manager, and Deputy CEO, Safety, Security & Regulatory Compliance Manager and Safety & Regulatory Compliance Specialist met with Cal/OSHA's Regional Division Manager in Monrovia. The Agency's team presented abatement documentation, photographs, safety plans and procedures, not only to correct current findings but also long-term processes to provide continuous and sustained improvement of the Agency's safety programs and procedures. The Agency has taken additional measures to increase its oversight and ensure compliance of the Safety Inspections by adding it to the annual Audit Plan.

Cal/OSHA's Regional Manager was satisfied with the Agency's prompt response and abatement efforts. All of the findings were deemed as being either fully abated or in process of abatement. This meeting resulted in an additional 30% reduction in five (5) penalties, and fines were removed for the two (2) remaining penalties.

The prompt and timely abatement on the part of the Agency permitted Cal/OSHA's Regional Manager to request a Non-Admission Clause be granted by the Administrative Law Judge. The Administrative Law Judge stated in the final settlement agreement that *“IT IS STIPULATED by and between the parties that the settlement terms and conditions are not intended to be and shall not be construed by anyone or any proceeding as an admission of negligence, fault, or wrongdoing whatsoever by employer.”*

### **CONCLUSION**

Receive and file update on the recent Department of Industrial Relations Division of Occupational Safety and Health Administration (OSHA) inspection and violations.

PSG: BEE



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San Bernardino, CA 92411  
909-379-7100  
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ITEM #           E4          

**DATE:** August 3, 2018

**TO:** Board Chair Ron Dailey and Members of the Executive Committee

**FROM:** P. Scott Graham, CEO/General Manager

**SUBJECT: CEO/GENERAL MANAGER'S REPORT**

In an effort to further boost brand recognition and community support for Omnitrans, new Access vehicles will be branded with the colors and with similar design elements as the Omnitrans fixed route buses. This process will begin with the next bus order (5 buses).

Plans are underway to begin fueling the CNG Access buses at Omnitrans West Valley facility. As you may recall, we began the process of transitioning the Access fleet from unleaded gasoline to CNG fuel. These vehicles are currently being fueled off-site at a public station. Bringing them on-site will reduce fuel costs and will also increase the credits we receive under the Low Carbon Fuel Standard (LCFS) Program. We expect to begin this process in the coming weeks. Once fully implemented, we estimate this will generate an estimated additional \$600,000 in LCFS credits annually.

PSG