



BOARD OF DIRECTORS MEETING
WEDNESDAY, OCTOBER 3, 2018 – 8:00 A.M.
OMNITRANS METRO FACILITY
1700 WEST 5TH STREET
SAN BERNARDINO, CA 92411

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

A. CALL TO ORDER

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

B. ANNOUNCEMENTS/PRESENTATIONS

1. Next Board Meeting: Wednesday, November 7, 2018 – 8:00 a.m.
Omnitrans Metro Facility Board Room
2. Employee of the Quarter Award

C. COMMUNICATIONS FROM THE PUBLIC

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

D. POSSIBLE CONFLICT OF INTEREST ISSUES

1. Note agenda item contractors, subcontractors and agents, which may require member abstentions due to conflict of interest and financial interests. Board Member abstentions shall be stated under this item for recordation on the appropriate item. 3

E. CONSENT CALENDAR

The following items are expected to be routine and non-controversial. The Board will act upon them at one time without discussion, unless the Board directs that an item be held for further discussion under Agenda Item F, Discussion Items. Any person wishing to address consent items should address the Board under Agenda Item #E10, Action on Consent Calendar.

1. Approve Board Minutes – September 5, 2018 6
2. Receive and File Executive Committee Minutes – August 3, 2018 (EXE 9/7/18) 11
3. Authorize Release - IFB-MKP19-32, Construction of Active Transportation Program (ATP) Safe Routes to Transit Project Supplemental Package of Work for Corona Avenue Sidewalk – *Anna Jaiswal* 15
4. Authorize Release – IFB-MNT19-02, Bus Tire Lease and Services – *Eugenia Pinheiro* 17
5. Authorize Release – IFB-MNT19-16, Elevator Modernization Project – *Eugenia Pinheiro* 19



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E. CONSENT CALENDAR CONTINUED	
6. Authorize Award – Contract HRS19-01, Pre-Employment Background Checks – <i>Eugenia Pinheiro</i>	21
7. Authorize Award – Contract MNT19-14, Hydraulic Hoist Inspection and Repair – <i>Eugenia Pinheiro</i>	24
8. Authorize Award – Contract OPS19-13, Vehicle Up-Fitting Services – <i>Eugenia Pinheiro</i>	26
9. Authorize Award Sole Source Purchase Orders – ITS19-43 (A-D), Supervisor Vehicle Equipment Transfer – <i>Eugenia Pinheiro</i>	29
10. Action on Consent Calendar	
F. DISCUSSION ITEMS	
The following items do not legally require any public testimony, although the Chair may open the meeting for public input.	
1. CEO/General Manager’s Report - <i>P. Scott Graham</i>	31
2. Approve Proposed Special Legislation to Change Omnitrans from a Joint Powers Authority to a Statutorily Created Special Transit District and Related Memorandum of Understanding with San Bernardino County Transportation Authority – <i>Haviva Shane (EXE 9/7/18)</i>	32
3. Authorize Award – Contract HRS19-04, Workers’ Compensation Claims Administration Services – <i>Eugenia Pinheiro</i>	56
G. BOARD BUSINESS	
There is no Closed Session	
H. REMARKS AND ANNOUNCEMENTS	
I. ADJOURNMENT	



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 San Bernardino, CA 92411
 909-379-7100
 www.omnitrans.org

ITEM # D1

DATE: October 3, 2018

TO: Board Chair Ron Dailey and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Eugenia F. Pinheiro, Contracts Manager

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

FORM MOTION

Staff hereby provides a listing of principals and subcontractors associated with action items on the agenda for the Board of Director’s Meeting scheduled October 3, 2018.

Item	Contract	Principals & Agents	Subcontractors
#E6	Authorize Award Contract HRS19-01 Pre-Employment Background Checks	<i>Employers Choice Online, Inc.</i> <i>Whittier, CA</i> <i>Jesus A. Lopez</i> <i>Procurement Contracts Specialist</i>	N/A
#E7	Authorize Award Contract MNT19-14 Hydraulic Hoist Inspection and Repair	<i>Southwest Lift & Equipment, Inc.</i> <i>San Bernardino, CA</i> <i>Dean McDonald</i> <i>President</i>	N/A
#E8	Authorize Award Contract OPS19-13 Vehicle Up-Fitting Services	<i>Bear Communications, Inc.</i> <i>Redondo Beach, CA</i> <i>Walter Kadyk</i> <i>MR Account Manager</i>	N/A
#E9	Authorize Award Sole Source Purchase Orders ITS19-43 (A-D) Supervisor Vehicle Equipment Transfer	<i>Khavarian Enterprises, Inc. dba</i> <i>Vision Communications</i> <i>Long Beach, CA</i> <i>Jimmy Torres</i> <i>Service Manager</i>	N/A
		<i>Safety Vision, L.P.</i> <i>Houston, TX</i> <i>Michael Ondruch</i> <i>Chief Financial Officer</i>	N/A
		<i>Transit Solutions, LLC</i> <i>Zelienople, PA</i>	N/A

Item	Contract	Principals & Agents	Subcontractors
		<i>John White President Trapeze Software Group, Inc. Cedar Rapids, IA Eric Herrmann, Chief Financial Officer Cedar Rapids, IA</i>	N/A
#F3	Authorize Award Contract HRS19-04 Workers' Compensation Claims Administration Services	<i>Pacific Claims Management Fresno, CA Jerry Laval President</i>	N/A

PSG:EFF



CONFLICT OF INTEREST FORM

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

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

BOARD MEMBER INFORMATION

BOARD MEMBER NAME	CITY/COUNTY NAME	MEETING DATE

CAMPAIGN CONTRIBUTIONS

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

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

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

FINANCIAL INTEREST

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

Identify company or property location

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

SIGNATURE

Board Member Signature
Date

ITEM # E1

**BOARD OF DIRECTORS' MEETING
MINUTES OF SEPTEMBER 5, 2018**

A. CALL TO ORDER

Chairman Ron Dailey called the regular meeting of the Omnitrans Board of Directors to order at 8:02 a.m., Wednesday, September 5, 2018, at the Omnitrans Facility located at 1700 West 5th Street, San Bernardino, California.

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

BOARD MEMBERS PRESENT

Council Member Ron Dailey, City of Loma Linda – Chairman
Council Member David Avila, City of Yucaipa – Vice Chairman
Mayor Carey Davis, City of San Bernardino
Mayor Richard DeLaRosa, City of Colton
Council Member John Dutrey, City of Montclair
Mayor Paul Foster, City of Redlands
Supervisor Josie Gonzales, County of San Bernardino
Supervisor Curt Hagman, County of San Bernardino
Council Member Penny Lilburn, City of Highland
Council Member Ray Marquez, City of Chino Hills - Alternate
Mayor Pro Tem John Roberts, City of Fontana
Mayor Deborah Robertson, City of Rialto
Supervisor Janice Rutherford, County of San Bernardino
Mayor Pro Tem Sylvia Robles, City of Grand Terrace
Council Member Sam Spagnolo, City of Rancho Cucamonga
Council Member Debbie Stone, City of Upland
Mayor Eunice Ulloa, City of Chino
Mayor Pro Tem Alan Wapner, City of Ontario

BOARD MEMBERS NOT PRESENT

Supervisor James Ramos, County of San Bernardino

OMNITRANS' ADMINISTRATIVE STAFF PRESENT

P. Scott Graham, CEO/General Manager
Erin Rogers, Deputy General Manager
Trischelle Baysden, Director of Rail

Samuel Gibbs, Director of Internal Audit
Jacob Harms, Director of Information Technology
Suzanne Pfeiffer, Director of Human Resources
Eugenia Pinheiro, Contracts Manager
Connie Raya, Director of Maintenance
Doug Stanley, Director of Special Transportation Services
Don Walker, Director of Finance
Wendy Williams, Director of Marketing-Planning
Jeremiah Bryant, Service Planning Manager
Omar Bryant, Maintenance Manager
Melissa Castillo, Customer Service Manager
Anna Jaiswal, Development Planning Manager
Ray Maldonado, Employee Relations Manager
Kathy McClure, Sr. Contract Administrator
Caroljo, Mitcham, Senior Fleet Analyst
Harry Morck, Network Administrator
Roberta Robertson, Transportation Manager
Krystal Turner, Contracts Administrator
Julienne Overland-Villegas, Executive Assistant to CEO/General Manager

LEGAL COUNSEL

Haviva Shane, Legal Counsel

B. ANNOUNCEMENTS/PRESENTATIONS

1. Next Board Meeting: Wednesday, October 3, 2018, 8:00 a.m.
Omnitrans Metro Facility Board Room

C. COMMUNICATIONS FROM THE PUBLIC

There were no communications from the public.

D. POSSIBLE CONFLICT OF INTEREST ISSUES

There were no Conflict of Interest Issues.

E. CONSENT CALENDAR

1. Approve Board Minutes – July 11, 2018
2. Receive and File Executive Committee Minutes – July 6, 2018
3. Receive and File Administrative & Finance Committee Minutes – June 14, 2018
4. Receive and File Plans & Programs Committee Minutes – April 25, 2018
5. Receive and File Agency Management Report – Fiscal Year 2018 Fourth Quarter Report
6. Receive and File Omnitrans' Equal Employment Opportunity Quarterly Report
7. Receive and File Annual Internal Audit Workplan and Schedule FY2019
8. Receive and File West Valley Connector Project Update

9. Receive and File OmniConnects Short-Range Transit Plan FY2019-2025 Status Update
10. Receive and File Customer-Based Ridesharing and Transit Interconnectivity Study Presentation
11. Adopt the Triennial Title VI Report for Submission to the Federal Transit Administration (FTA)
12. Authorize One-Year Pilot Adopt-A-Stop Program
13. Approve Proposed Policy Change to Policy 406 - Out of Classification Assignments
14. Approve Reclassification of an Employee from Fleet Analyst Position, Level VIII to a Sr. Fleet Analyst Position Level VII and Approve the Proposed Revisions to Personnel Policy 402, Salary Ranges, Management Confidential
15. Authorize the CEO/General Manager to Extend the Current Lease Agreement with H&S Properties, Inc. for the Brooks Street Maintenance Facility
16. Adopt Resolution No. 308-18, Authorizing the Filing of Funding Applications with Federal, State, and Local Funding Sources
17. Authorize Release – Invitation for Bids – IFB-MNT19-27, Transmissions – New and Remanufactured (Voith and Allison)
18. Authorize Assignment – Contract MNT14-01, Industrial Chemicals
19. Authorize Award – Purchase Order ITS19-06, VMware License Subscription

M/S (Roberts/Spagnolo) that approved Consent Calendar. Motion was passed unanimously by Members present.

F. DISCUSSION ITEMS

1. CEO/General Manager's Report

CEO/General Manager, P. Scott Graham, reviewed the CEO/General's Manager's Report.

Supervisor Gonzales and Council Member Marquez arrived at 8:06 a.m. during Item F1.

2. Receive and File Management Plan Strategic Initiatives and Key Performance Indicators Fiscal Year 2018 Fourth Quarter Reports

CEO/General Manager, P. Scott Graham reviewed a brief PowerPoint presentation highlighting the FY2018 Management Plan Strategic Initiatives and Key Performance Indicators for the Fourth Quarter.

Supervisor Hagman arrived at 8:16 a.m. during Item F2.

There were some questions from the Board regarding the Key Performance Indicators section related to the Loss of Service Hours data. Mr. Graham reviewed some of the challenges Omnitrans' and the transit industry, in general, are facing and explained some of the mitigation efforts being implemented to address the issue.

Chair Dailey asked if industry benchmark information is available related to the Family and Medical Leave Act (FMLA) and Worker's Compensation leaves. Mr. Graham

responded that the American Bus Benchmarking Group (ABBG), will be in town for a conference in October and this issue would be brought forward for discussion.

Chair Dailey also commended the Administrative Team for their Leadership Development Academy (LDA), Succession Training Program and recognized the participants.

M/S (Avila/Dutrey) that received and filed this report. Motion was passed unanimously by Members present.

3. Authorize Execution of Documents, Amendments and Budget Amendments for Senate Bill 1 State of Good Repair Program

Director of Finance, Don Walker, provided a brief background on this item as detailed in the staff report.

M/S (Gonzales/Dutrey) that:

- Authorized the CEO/General Manager to execute all required documents and any amendments required to execute Senate Bill 1 State of Good Repair program; and
- Authorized the CEO/General Manager to amend Omnitrans' Capital Budget to include \$3,694,228 in Senate Bill 1 State of Good Repair Funds.

Motion was passed unanimously by Members present.

4. 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

Director of Rail, Trischelle Baysden, provided a brief overview of the Redlands Passenger Rail Service alignment and highlighted the roles and responsibilities of the three agencies included in the Three-Party Agreement. She introduced Legal Counsel, Haviva Shane, to brief the Committee on the insurance portion of the project.

Ms. Shane explained that because of the nature of the railroad liability insurance industry, Omnitrans' insurance consultant advised that a single railroad liability coverage be provided for "Arrow service", in the amount of \$350 million, covering all claims that involve a Redlands Passenger Rail Train. Under the Agreement, Omnitrans will be the policy holder, and SBCTA and Metrolink, and their contractors, will be added as additional insureds. To accomplish this structure, the Agreement requires Omnitrans to indemnify SBCTA and Metrolink, and their contractors for all claims that involve an Arrow train, regardless of cause (except for certain excluded claims, such as for willful misconduct). Ms. Shane explained that the coverage will have a \$2 million self-insured retention to be funded by SBCTA in a lump sum, to be held in a separate account by Omnitrans for use in resolving claims within the retention amount.

There were several questions regarding the amount of the insurance requirements and coverage. Ms. Shane explained that the coverage amount is based on the \$295 million federal cap for passenger liability, with the additional amount intended to cover non-passenger claims, such as damage to a freight train, or environmental spills.

M/S (Avila/Lilburn) that recommended 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 completion of negotiations and Board approval from all parties, the O&M Agreement will be executed. Motion was passed unanimously by Members present.

G. BOARD BUSINESS

There was no Closed Session scheduled.

H. REMARKS AND ANNOUNCEMENTS

There were no remarks or announcements.

Member Spagnolo asked that the meeting be adjourned in memory of former Board Member Paul Eaton. The Board also wished Member Dutrey a Happy Birthday.

I. ADJOURNMENT

The Board adjourned at 8:48 a.m. The next regular meeting is scheduled Wednesday, October 3, 2018, at 8:00 a.m., with location posted on the Omnitrans website and at Omnitrans' San Bernardino Metro Facility.

Prepared by:

Araceli Barajas, Executive Staff Assistant



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ITEM # E2

**EXECUTIVE COMMITTEE MEETING
MINUTES
AUGUST 3, 2018**

A. CALL TO ORDER

The Executive Committee Meeting was called to order by Chairman Ron Dailey at 9:00 a.m., Friday, August 3, 2018 at the Omnitrans Administrative Offices.

COMMITTEE MEMBERS ATTENDING

Council Member Ron Dailey, City of Loma Linda – Board Chairman
Council Member David Avila, City of Yucaipa – Board Vice Chairman
Council Member Penny Lilburn, City of Highland
Mayor Pro Tem John Roberts, City of Fontana
Council Member Sam Spagnolo, City of Rancho Cucamonga
Mayor Pro Tem Alan Wapner, City of Ontario – Via Teleconference

OTHERS ATTENDING

Haviva Shane, General Counsel

OMNITRANS STAFF ATTENDING

P. Scott Graham, CEO/General Manager
Trischelle Baysden, Director of Rail Operations
Julienne Overland-Villegas, Executive Assistant to the CEO/General Manager

B. ANNOUNCEMENTS/PRESENTATIONS

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

C. COMMUNICATIONS FROM THE PUBLIC

There were no communications from the public.

D. POSSIBLE CONFLICT OF INTEREST ISSUES

There were no Conflict of Interest Issues.

E. DISCUSSION ITEMS

1. Approve Executive Committee Minutes – July 6, 2018

Member Lilburn asked that the minutes be corrected to reflect her designation as Council Member instead of Mayor.

M/S (Spagnolo/Lilburn) that approved the Executive Committee Minutes of July 6, 2018. Roll call vote was taken and the motion was passed unanimously by Members present.

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

Director of Rail, Trischelle Baysden, presented this item. She provided a brief overview of the Redlands Passenger Rail Service alignment and highlighted the roles and responsibilities of the three agencies included in the Three-Party Agreement. She introduced Legal Counsel, Haviva Shane to brief the Committee on the insurance portion of the project.

Ms. Shane provided some background information on the development of the Agreement and how it transitioned from being a two-party to a three-party agreement. She reviewed insurance policy issues related to passenger rail service, and concerns with multiple agencies carrying overlapping railroad liability coverage. Ms. Shane explained that to address this issue, a single railroad liability policy will be purchased to cover claims related to Arrow service that involve a Redlands Passenger Rail Train. The policy will be fully funded by SBCTA in the amount of \$350 million, with a \$2 million self-insured retention. Omnitrans will be the policy holder, and SBCTA and Metrolink, and their contractors, will be added as additional insureds. Ms. Shane explained that to accomplish this structure, the three-party Agreement requires Omnitrans to indemnify SBCTA and Metrolink, and their contractors, for such claims, regardless of cause, with the intent that these claims will be covered by the insurance policy. Certain claims are excluded from the indemnification obligation, such as claims based on willful misconduct. Ms. Shane further explained that, under the current draft of the Agreement, the \$2 million self-insured retention will be funded by SBCTA in a lump sum, to be held in a separate account by Omnitrans for use in resolving claims within the retention amount.

Ms. Baysden concluded her presentation by reviewing the project timeline and stated that the service is expected to begin mid to late 2021.

The Committee had some questions regarding the stop locations and service frequency. Ms. Baysden responded to their questions. The Committee recommended that marketing efforts begin early and a robust campaign be implemented as the project start date approaches.

Member Spagnolo requested that periodic updates be provided to the Board so that they may update their Council and community at their respective council meetings.

M/S (Spagnolo/Avila) 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 *contingent upon no substantive changes being made following the Board's action*. Roll call vote was taken and the motion was passed unanimously by Members present.

3. Receive and File, Update on Recent California Department of Industrial Relations, Division of Occupational Safety Health Administration (CalOSHA) Inspection and Violations.

CEO/General Manager, P. Scott Graham, provided a brief overview on the CalOSHA Inspection conducted at the West Valley facility on November 17, 2017. He reviewed the citations and informed the committee that due to the corrective efforts made by the Agency, CalOSHA reduced the penalties by 30% for five penalties and the fines were removed for the two remaining penalties. Mr. Graham also informed the Committee that the Agency has taken additional measures to ensure Omnitrans is in compliance with all routine safety inspections and noted that this item will be added to the Annual Audit Plan. Mr. Graham concluded his report by stating that the Agency was granted a Non-Admission Clause by the reviewing Administrative Law Judge. Committee members commended Omnitrans staff for the prompt attention and swift corrective actions taken.

The Committee received and filed this item.

4. CEO/General Manager's Report

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

F. BOARD BUSINESS

There was no Closed Session.

G. REMARKS AND ANNOUNCEMENTS

There were no remarks and announcements.

H. ADJOURNMENT

The Committee adjourned at 10:15 a.m. The next Executive Committee Meeting is scheduled Friday, September 7, 2018, at 9:00 a.m., with location posted on the Omnitrans website and at the Omnitrans San Bernardino Metro Facility.

Prepared by:

Araceli Barajas, Executive Staff Assistant

ITEM # E3

DATE: October 3, 2018

TO: Board Chair Ron Dailey and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Wendy Williams, Director of Marketing & Planning

SUBJECT: AUTHORIZE RELEASE – IFB-MKP19-32 FOR CONSTRUCTION OF ACTIVE TRANSPORTATION PROGRAM (ATP) SAFE ROUTES TO TRANSIT PROJECT SUPPLEMENTAL PACKAGE OF WORK FOR CORONA AVENUE SIDEWALK

FORM MOTION

Recommend to the Board of Directors to authorize the CEO/General Manager to release Invitation for Bids IFB-MKP19-32 for Construction of Active Transportation Program (ATP) Safe Routes to Transit Project Supplemental Package of Work for Corona Avenue Sidewalk.

BACKGROUND

In 2014, the California Transportation Commission awarded Omnitrans a \$3,500,000 Active Transportation Program (ATP) grant for a Safe Routes to Transit project for the design and construction of pedestrian and bicycle improvements, including sidewalk, curb ramps, crosswalks, and bike racks within a half-mile of future West Valley Connector stations in the cities of Fontana, Montclair, Ontario, Pomona, and Rancho Cucamonga.

During the design of the Safe Routes to Transit project, Omnitrans staff and its design firm Parsons Transportation Group consulted with staff of the five cities to solicit input regarding locations in need of improvements, with the priority being placed on closing sidewalk gaps to improve pedestrian access to future West Valley Connector stations. Staff of the five cities agreed upon the scope of the project and signed off on the project plans.

The Board of Directors authorized award of a construction contract to S&H Civilworks in December 2017. The work in the contract is now 80 percent complete. During construction, several unforeseen existing conditions were discovered on one of the segments of sidewalk to be constructed in the City of Ontario. Staff of the City, Omnitrans, and Parsons met and agreed that in order to build the sidewalk segment on Corona Avenue called out in the project plans in compliance with Americans with Disabilities Act (ADA) and City regulations, it will necessitate replacing several trees, reconstructing several driveways, relocating utilities, and building a retaining wall and asphalt paving.

Because S&H Civilworks' bid was lower than the original cost estimate for the work, Omnitrans has sufficient grant funds remaining from the ATP grant to complete the work to construct the sidewalk segment on Corona Avenue. Staff recommends going out to bid for a separate package of work for the Corona Avenue sidewalk, in order to obtain the best possible bid for the work.

The scope of work includes mobilization and traffic control; water pollution control; construction of concrete sidewalk and curb ramps on Corona Avenue between D Street and Holt Boulevard; construction of driveway approaches, tree removal and planting; construction of concrete retaining curb; construction of concrete spandrels; asphalt pavement grind and overlay; and removing and reestablishing existing landscape irrigation.

FUNDING SOURCE

The Independent Cost Estimate for the work is \$371,745.00, plus a 10% contingency of \$37,174.50, and a 3.27% CAP of \$13,371.67, for a total not to exceed \$422,291.17. The cost of the work will be funded by the remaining ATP grant funds, which are 100% federal funds with no required local match. The grant funding was originally Federal Highway Administration funds awarded to Omnitrans by the California Transportation Commission, which have since been transferred to FTA.

FUNDING	GRANT #	YEAR	PROJECT NAME	INTERNAL ORDER	AMOUNT
FTA	TBD	2016	ATP	H16ATP00F	\$422,291.17

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

CONCLUSION

Staff recommends authorizing the CEO/General Manager to release Invitation for Bids IFB-MKP19-32 for Construction of Active Transportation Program (ATP) Safe Routes to Transit Project Supplemental Package of Work for Corona Avenue Sidewalk.

PSG:WW:AMJ

ITEM # E4

DATE: October 3, 2018

TO: Board Chair Ron Dailey and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Eugenia Pinheiro, Contracts Manager

**SUBJECT: AUTHORIZE RELEASE – IFB-MNT19-02
BUS TIRE LEASE AND SERVICES**

FORM MOTION

Authorize the CEO/General Manager to release Invitation for Bids IFB-MNT19-02 for the provision of Bus Tire Lease and Services for a three (3) year base period and two (2) single option years.

BACKGROUND

Omnitrans' current Contract MNT13-100 with Bridgestone USA for the lease of bus tires and tire services on an as-needed basis is due to expire January 31, 2019. Omnitrans requires a firm to provide its ongoing tire requirements. The new solicitation includes the requirement for full bus tire services.

In accordance with FTA Circular 4220.1F and Omnitrans' Procurement Policy 2000, Section 2.3.5.1.3, Board authorization and use of a formal procurement procedure is required to release Invitation for Bids for procurements exceeding \$150,000. The Independent Cost Estimate for this project is \$3,632,340, if all options are exercised.

FUNDING SOURCE

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

Department	1200
Expenditure Code	512400

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

Short Range Transit Plan/Strategic Initiative Supported – This procurement supports Omnitrans’ Short Range Transit Plan FY2015–2020 goal to expand, maintain and improve existing vehicles, facilities and passenger amenities.

CONCLUSION

By proceeding with this solicitation, Omnitrans will have the ability to maintain the operation of its fleet of buses.

PSG:EFP:CVM

ITEM # E5

DATE: October 3, 2018

TO: Board Chair Ron Dailey and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Eugenia Pinheiro, Contracts Manager

SUBJECT: **AUTHORIZE RELEASE – IFB-MNT19-16
ELEVATOR MODERNIZATION PROJECT**

FORM MOTION

Authorize the CEO/General Manager to release Invitation for Bids IFB-MNT19-16 for the Elevator Modernization Project at Omnitrans’ East Valley location.

BACKGROUND

Omnitrans requires the services of a qualified Contractor to provide elevator modernization and maintenance services to three (3) of its elevators at its East Valley location. The existing elevators, controls, and supporting hardware are obsolete and no longer supported by the original manufacturer. Repair parts are becoming increasingly difficult to obtain and the reliability of the elevators is declining. Work shall include modernization of three (3) elevators and cab interior modernization. The expected work shall include the removal and disposal of elevator components not being used in the modernization, supply and installation of new components, electrical work, minimum one-year warranty, one-year full maintenance, and all other work necessary to provide fully functional State of California certified elevators.

In accordance with FTA Circular 4220.1F and Omnitrans’ Procurement Policy 2000, Section 2.3.5.1.3, Board authorization and use of a formal procurement procedure is required to release Invitation for Bids for procurements exceeding \$150,000. The Independent Cost Estimate for this project is \$411,480.

FUNDING SOURCE

The cost associated with this procurement is budgeted in Omnitrans’ Capital Budget as follows:

FUNDING	GRANT #	YEAR	PROJECT NAME	INTERNAL ORDER	AMOUNT
FTA	CA-90-Z280-00	2015	Facility Project	D15220PY2	\$329,184.00
Prop 1B	09/10-8-34C	2014	Facility Project	D1440330B	\$82,296.00
Total					\$411,480.00

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

Short Range Transit Plan/Strategic Initiative Supported – This procurement supports Omnitrans’ Short Range Transit Plan FY2015–2020 goal to expand, maintain and improve existing vehicles, facilities and passenger amenities.

CONCLUSION

By proceeding with this solicitation, Omnitrans will have the ability to maintain the safety and reliability of its elevators.

PSG:EFP:KAM

ITEM # E6

DATE: October 3, 2018

TO: Board Chair Ron Dailey and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Eugenia Pinheiro, Contracts Manager

SUBJECT: **AUTHORIZE AWARD – CONTRACT HRS19-01
PRE-EMPLOYMENT BACKGROUND CHECKS**

FORM MOTION

Authorize the CEO/General Manager to award Contract HRS19-01 to Employers Choice Online, Inc. of Whittier, CA, for the provision of Pre-Employment Background Checks for a three (3) base period beginning December 1, 2018 and ending November 30, 2021, and the authority to exercise two (2) single option years, extending the contract to no later than November 30, 2023, in the amount of \$75,000, plus a ten percent contingency of \$7,500 for total not-to-exceed amount of \$82,500, should all option years be exercised.

BACKGROUND

Pre-employment background checks are completed as part of the employment process. The standard background check includes a four-county search, Social Security Number trace, National Criminal File, Sex Offender trace and E-verify. Other services may include employment and education verifications, as well as, previous Department of Transportation (DOT) drug and alcohol testing for safety sensitive positions.

On June 12, 2018, staff released Request for Proposals RFP-HRS19-01. The solicitation was posted on Omnitrans' online bidding system. Four proposals were received by the July 12, 2018 deadline, all were deemed responsive, and evaluated in accordance with the selection criteria included in the RFP.

The firms are ranked from highest to lowest score:

Selection Criteria	Total Possible Points	Employers Choice Online, Inc. of Whittier, CA	AccuSource, Inc. of Corona, CA	TruView BSI, LLC of Hicksville, NY	Accurate Investigation Services, LLC of Bend, OR
Project Approach	45	38.25	35.55	33.75	34.50
Qualification and Experience Firm and Staff	35	31.50	29.75	31.85	23.92
Technical Total	80	69.75	65.30	65.60	58.42
Price*	20	20.00	16.70	15.02	13.10
Total	100	89.75	82.00	80.62	71.52

Employers Choice Online, Inc. scored highest technically and offered the lowest unit pricing. The firm meets all requirements, has experience with government agencies, and received excellent references from the Texas Department of Transportation (DOT) and the Orange County Sanitation District (CA). Employers Choice Online, Inc. is a Disadvantaged Business Enterprise. The proposed unit pricing is less than the current contracted rates. Pricing is deemed fair and reasonable based on competition. The recommended award amount is based on historical spend and anticipated usage.

**Please refer to attached unit pricing submitted by Proposers*

The Evaluation Committee’s recommendation for this item was reviewed by Internal Audit. This procurement meets the requirements of Omnitrans’ Procurement Policies and Procedures.

FUNDING SOURCE

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

Department Number 1600
 Expenditure Code 503060

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

CONCLUSION

By proceeding with this award, Omnitrans can ensure that newly hired staff have met the necessary background requirements.

PSG:EFP:CVM

Attachment: Proposer’s Unit Pricing

RFP-HRS19-01					
PRE-EMPLOYMENT BACKGROUND CHECKS					
Service	Unit Price				
	Accurate Investigation Services, LLC	Accusource, Inc.	Employers Choice Online, Inc.	TruView BSI, LLC	TruView BSI, LLC
	5 Years	5 Years	5 Years	Base Year 1 and 2	Base Year 3, Option Years 1 and 2
Civil Suits and Judgments:					
Upper and Lower	10.05	10.50	9.50	10.00	10.50
Credit Searches:					
Individual	6.63	6.00	4.50	6.50	7.00
Criminal Searches:					
Four county search**	14.00	13.35	12.50	12.95	13.35*
All counties, statutory limits (within 1 week)	7.00	7.50	6.50	6.50	6.85
Statewide search	8.00	7.00	6.00	6.95	7.15
Federal search	7.90	6.00	3.00	5.00	5.50
International search***	Varies	Exhibit D	10.00	15.00	15.00
National Criminal File Search	6.30	4.00	5.00	6.00	6.00
Sex Offender Search	1.70	1.75	Free	Incl Natl Crime	Incl Natl Crime
Identity Validation:					
Social Security Validation	1.00	1.50	1.25	Incl Natl Crime	Incl Natl Crime
Verifications:					
Employment	10.99	7.00	6.50	7.95	8.50
Self-employment	10.99	7.00	6.50	7.95	8.50
Employment, International	Varies	35.00	10.00	15.00	15.00
Education	10.89	7.50	6.50	8.00	8.50
License / Professional	10.00	8.00	6.00	8.00	8.50
Military****	10.00	8.50	6.00	10.00	11.00
Drug / Alcohol test results from prior DOT employers	16.00	8.00	6.50	15.60	16.00
Personal References	10.99	8.00	6.50	9.00	9.15
E Verify	3.00	2.50	2.50	2.75	2.85

* Option Year 2 only; unit pricing for Base Year 3 and Option Year 1 is \$12.95

ITEM # E7

DATE: October 3, 2018

TO: Board Chair Ron Dailey and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Eugenia Pinheiro, Contracts Manager

**SUBJECT: AUTHORIZE AWARD – CONTRACT MNT19-14
HYDRAULIC HOIST INSPECTION AND REPAIR**

FORM MOTION

Authorize the CEO/General Manager to award Contract MNT19-14 to Southwest Lift & Equipment, Inc. of San Bernardino, CA, for the provision of Hydraulic Hoist Inspection and Repair for a three (3) year base period beginning October 3, 2018 and ending October 2, 2021, and the authority to exercise two (2) single option years ending no later than October 2, 2023, in the amount of \$33,540 with the option to provide services at the West Valley location in the amount of \$10,955, a repair allowance in the amount of \$60,000, plus a ten percent contingency of \$10,450, for a total not-to-exceed amount of \$114,945, if all options are exercised.

BACKGROUND

Omnitrans requires the services of a qualified contractor to provide complete service and repair on all of Omnitrans’ lifting and hoisting equipment at its East Valley and “T” Street facilities with the option to provide services at the West Valley location. Services include annual inspections, maintenance and repair, and emergency services on an as needed basis.

On August 2, 2018, Omnitrans’ staff released Request for Quotes RFQ-MNT19-14, which was posted on Omnitrans’ online bidding system. Four (4) bids were received by the August 28, 2018 deadline; two (2) bids were found to be responsive.

Listed below are the bid prices:

COMPANY NAME	TOTAL*
Southwest Lift & Equipment, Inc. of San Bernardino, CA	\$44,495
Makai Solutions of Gardena, CA	\$97,982

*If all options are exercised. Base Total excludes an allowance of \$60,000 for as needed repairs and parts.

Award is recommended to the lowest, responsive and responsible bidder, Southwest Lift & Equipment, Inc. a local Contractor based in San Bernardino, CA. Price is deemed fair and reasonable based on competition.

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

FUNDING SOURCE

The cost associated with this procurement is budgeted in Maintenance's Operating budget as follows:

Department 1200
Expenditure Code 505060

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

Short Range Transit Plan/Strategic Initiative Supported – This procurement supports Omnitrans' Short Range Transit Plan FY2015 - 2020 goal to expand, maintain and improve existing vehicles, facilities and passenger amenities.

CONCLUSION

By proceeding with this award, Omnitrans' will have the ability to maintain its lifting and hoisting equipment.

PSG:EFP:KNT

ITEM # E8

DATE: October 3, 2018

TO: Board Chair Ron Dailey and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Eugenia Pinheiro, Contracts Manager

**SUBJECT: AUTHORIZE AWARD – CONTRACT OPS19-13
VEHICLE UP-FITTING SERVICES**

FORM MOTION

Authorize the CEO/General Manager to award Contract OPS19-13 for the provision of Vehicle Up-fitting Services for up to twelve (12) vehicles to Bear Communications, Inc. of Redondo Beach, CA in the amount of \$124,120, plus a ten percent contingency of \$12,412, and a Cost Allocation Plan (CAP) of (3.27% charged on Federal portion of \$109,226) \$3,572, for a total not-to-exceed amount of \$140,104.

BACKGROUND

Omnitrans' field supervisors currently utilize fifteen (15) vehicles at its East and West Valley locations. On January 10, 2018, Omnitrans' Board of Directors approved the award of Contract MNT18-47 for the provision of passenger vehicles to replace the current fleet of supervisor vans that have reached the end of their useful life. Omnitrans reduced the number of vehicles assigned to the field supervisors from fifteen (15) to twelve (12) crossover utility vehicles. The existing vehicles are equipped with aftermarket and proprietary equipment: radio, automated vehicle location systems, video access systems and video surveillance systems. The services and equipment provided under the vehicle up-fitting project includes the modification, fabrication, installation of wiring, and will ensure the vehicles are installation ready for proprietary equipment.

On June 6, 2018, Omnitrans' Board of Directors approved release of Request for Proposals RFP-OPS19-13. The solicitation was posted on Omnitrans' online bidding system. One (1) proposal was received by the August 1, 2018, deadline and was found to be responsive.

In accordance with FTA Circular 4220.1F, and Omnitrans Procurement Procedure 2010, Section 5, awarding a contract in response to a single bid is allowed when it can be determined that the lack of competition was not due to unfavorable terms and conditions or unduly restrictive scopes of work or technical specifications.

Staff surveyed firms that were notified of the solicitation but chose not to submit proposals. As a result of the survey, staff determined that the limited number of responses was unrelated to any term or specification and deemed the process valid.

The evaluation committee evaluated the proposal based upon the criteria set forth in the RFP.

Criteria	Total Points Possible	Bear Communications, Inc. of Redondo Beach, CA
Qualifications of Firm	35	27.42
Quality of Work	25	19.92
Experience	25	20.83
Technical Total	85	68.17
Cost/ Price	15	15.00
Total Score	100	83.17

Staff requested a Best and Final Offer (BAFO) and pricing remained the same. Bear Communications was found to be responsible and has over 37 years of experience in providing similar services to the transit industry. The firm will perform installations locally at their facility in Ontario, CA.

Award is recommended to Bear Communications, Inc. in the amount of \$124,120. A detailed cost analysis was performed and the price is deemed fair and reasonable.

The Evaluation Committee’s recommendation for this item was reviewed by Internal Audit. This procurement meets the requirements of Omnitrans’ Procurement Policies and Procedures.

FUNDING SOURCE

The cost associated with this procurement is budgeted in Omnitrans’ Capital Budget as follows:

FUNDING	GRANT #	YEAR	PROJECT NAME	INTERNAL ORDER	AMOUNT
FTA 5307	CA-2017-148	2016	Vehicle Up-fitting	D1621111F	\$17,305
FTA 5307	CA-2017-032	2017	Vehicle Up-fitting	D1721111F	\$88,578
Prop 1B	Prop 1B	2016	Vehicle Up-fitting	D1621111B	\$34,221
Total					\$140,104

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

Short Range Transit Plan/Strategic Initiative Supported – This procurement supports Omnitrans’ Short Range Transit Plan FY2015-2020 goal to expand, maintain and improve existing vehicles, facilities and passenger amenities.

CONCLUSION

By proceeding with this award, Omnitrans has the ability to install the required communication and operating equipment in the supervisor vehicles.

PSG:EFP:KT

ITEM # E9

DATE: October 3, 2018

TO: Board Chair Ron Dailey and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Eugenia Pinheiro, Contracts Manager

**SUBJECT: AUTHORIZE AWARD SOLE SOURCE PURCHASE ORDERS
ITS19-43(A-D) SUPERVISOR VEHICLE EQUIPMENT TRANSFER**

FORM MOTION

Authorize the CEO/General Manager to award Purchase Orders ITS19-43(A-D) as listed below for the provision of Supervisor Vehicle Equipment Transfer, in an aggregate amount of \$127,458 plus a ten percent contingency of \$12,746, and a Cost Allocation Plan (CAP) of (3.27% charged on Federal portion of \$112,163) \$3,667 for a total not-to-exceed amount of \$143,871.

List of Contracts for authorization:

Contract Number	Contractor*
ITS19-43A	Khavarian Enterprises, Inc. dba Vision Communications Co., of Long Beach, CA
ITS19-43B	Safety Vision, L.P. of Houston, TX
ITS19-43C	Transit Solutions, LLC of Zelienople, PA
ITS19-43D	Trapeze Software Group, Inc. of Cedar Rapids, IA

*Contractors are listed in alphabetical order.

BACKGROUND

Omnitrans' field supervisors currently utilize fifteen (15) vehicles at its East and West Valley locations. On January 10, 2018, Omnitrans' Board of Directors approved the award of Contract MNT18-47 for the provision of passenger vehicles to replace the current fleet of supervisor vans that have reached the end of their useful life. Omnitrans reduced the number of vehicles assigned to the field supervisors from fifteen (15) to twelve (12) crossover utility vehicles. The existing vehicles are equipped with aftermarket and proprietary equipment. The proprietary equipment currently installed on the supervisor vans requires removal and re-installation into twelve new supervisor vehicles.

In accordance with FTA Circular 4220.1F, Section VI-17, procurement by noncompetitive proposals may be used when the manufacturer is the sole provider of the items compatible with existing equipment/systems and when the equipment/systems are not interchangeable with similar

parts and equipment from other manufacturers. The firms identified above are the Original Equipment Manufacturers (OEM) of the proprietary equipment currently installed on the old supervisor vans and the sole provider of the maintenance and warranty services.

The total cost per Contractor is identified below:

	Amount*	Per Vehicle Cost
Khavarian Enterprises, Inc. dba Vision Communications Co.	\$9,215.42	\$767.95
Safety Vision, L.P.	\$8,413.20	\$701.10
Transit Solutions, LLC	\$35,718.00	\$2,976.50
Trapeze Software Group, Inc.	\$74,111.60	\$6,175.97
Total	\$127,458.22	\$10,621.52

*Pricing is inclusive of all direct and indirect fees.

A detailed cost analysis was performed and pricing is deemed fair and reasonable.

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

FUNDING SOURCE

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

FUNDING	GRANT #	YEAR	PROJECT NAME	INTERNAL ORDER	AMOUNT
FTA 5307	1681-2017-2	2018	Vehicle Up-fitting	D1821111F	\$115,097
Prop 1B	Prop 1B	2016	Vehicle Up-fitting	D1721111B	\$28,774
Total					\$143,871

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

Short Range Transit Plan/Strategic Initiative Supported – This procurement supports Omnitrans’ Short Range Transit Plan FY2015-2020 goal to expand, maintain and improve existing vehicles, facilities and passenger amenities.

CONCLUSION

By proceeding with this award, Omnitrans has the ability to install the required communication and operating equipment in the supervisor vehicles.

PSG:EFP:KT

ITEM # F1

DATE: October 3, 2018

TO: Board Chair Ron Dailey and Members of the Omnitrans Board of Directors

FROM: P. Scott Graham, CEO/General Manager

SUBJECT: CEO/GENERAL MANAGER’S REPORT

Deputy GM participated in the Cal State University, San Bernardino Leonard Transportation Center Regional Mobility Dialogue Series. The session looked at the role of transit and rail in the future of mobility in the region. Other panelist included a researcher from UCLA who was involved in the recent study evaluating declining transit ridership, Carrie Schindler from SBCTA, and the Southern California Marketing Manager from Lyft. This session was one in a series of discussions on relevant transportation topics impacting the industry and the region. The next session is scheduled for November 13, 2018, the topic is The Future of Transportation of Funding – Gas Tax, Per Mile Fees, and Other Ideas.

As part of the Leadership Development Academy (LDA), we had the pleasure to host an Omnitrans’ Board Member Panel. Chair Ron Dailey, Supervisor Janice Rutherford, and Member Penny Lilburn provided insight on the Board’s expectations of staff, personal background on themselves, politics, and leadership qualities that have impacted them in their careers.

In keeping with our FY19 Management Plan, Omnitrans staff had the first in a series of meetings with representatives from “Engie” on alternative energy solutions to reduce Omnitrans’ energy cost; “Engie” is an established energy services provider who delivers a customized approach to modernize and manage facilities with reliable and sustainable technologies that reduce costs, conserve resources, and optimize the environment in terms of comfort, lighting, safety, and productivity. The presentation outlined a number of opportunities and we are looking forward to our next meeting that will cover Engie’s “opportunity assessment” of Omnitrans on proposed energy solutions and savings estimates.

Mobile Fare sales spiked in August. There were a total of 13,334 units sold vs. the previous high of 10,977 in May. This is a 21% increase. The biggest gain is from the youth category, which we attribute to school being back in session.

PSG

ITEM # _____ F2 _____

DATE: October 3, 2018

TO: Board Chair Ron Dailey and Members of the Omnitrans Board of Directors

FROM: P. Scott Graham, CEO/General Manager

SUBJECT: PROPOSED SPECIAL LEGISLATION TO CHANGE OMNITRANS FROM A JOINT POWERS AUTHORITY TO A STATUTORILY CREATED SPECIAL TRANSIT DISTRICT AND RELATED MEMORANDUM OF UNDERSTANDING WITH SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

FORM MOTION

(1) Accept proposed final version of legislation to form Omnitrans as a transit district, and direct staff to proceed with identifying a bill author; and

(2) Approve related draft Memorandum of Understanding (MOU) with San Bernardino County Transportation Authority (SBCTA), and authorize the General Manager/CEO to finalize negotiations of the MOU and to execute the MOU, subject to general counsel review.

BACKGROUND

Recent Background on Omnitrans Transit District Legislation

On April 6, 2018, the Executive Committee directed legal counsel to work on updating and finalizing a new draft of the legislation to create Omnitrans as a special transit district under Division 10 of the Public Utilities Code.

Legal counsel reviewed prior versions of the draft legislation originally considered by the Board of Directors (Board) on March 1, 2017, and made revisions and changes consistent with legislation for other similar agencies.

On June 1, 2018, the Executive Committee reviewed and provided comments on the updated draft of the legislation. The draft was also provided to SBCTA for review and comment. On June 6, 2018 the Omnitrans Board reviewed and commented on the draft legislation.

A further updated version of the draft legislation was presented to the Executive Committee on September 7, 2018. During this meeting, the Executive Committee reviewed the updated draft, as well as the draft MOU, and received comments from SBCTA Executive Director, Dr. Ray Wolfe, regarding concerns with the taxation authority provided to Omnitrans under the legislation. The

rights granted to Omnitrans under the draft MOU related to a concurrent or future SBCTA tax measure were also discussed with Dr. Wolfe, and are further detailed below.

- At the direction of the Executive Committee provided at the September 7 meeting, the current version of the legislation includes the language related to taxation requested by SBCTA. This change is located in Chapter 5, Article 4, Section 108080, Taxation; Other Fees and Indebtedness.
 - A new subparagraph (i) to Section 108080 was added which requires Omnitrans to obtain SBCTA Board approval prior to initiating its own tax measure.
- An additional change to the legislation was made based on written comments from SBCTA, and was reviewed and approved by the Executive Committee. This change is to Chapter 5, Article 3, Section 108073, Transit Facilities and Services; Consolidated Transportation Agency. The concern expressed by SBCTA is that the language may be too broad, and may create overlapping planning responsibilities between Omnitrans and SBCTA.
 - An addition to this section of a new subparagraph (b) was proposed by SBCTA staff.
 - Omnitrans staff and legal counsel reviewed the proposed addition from SBCTA staff, but considered it too restrictive on Omnitrans' rights. A revised version of the proposed addition is included in the attached draft. SBCTA did not raise any concerns with the revised language.

In addition to the above, at the June 6, 2018 Board meeting, a Board Member requested a change to the legislation regarding the distribution of assets upon any dissolution of the district. Based on this request, the change described below was made and reviewed and approved by the Executive Committee:

- The legislation has been revised to more closely track the language in the Omnitrans Joint Powers Agreement regarding distribution of assets upon dissolution.
 - A new subparagraph (b) has been added to Section 108400, of Chapter 10, Dissolution to address the concern raised by the Board Member.

In addition to the above, some further minor changes and additions were made to the proposed legislation by General Counsel's office. These changes were considered and approved by the Executive Committee.

At the direction of the Executive Committee, the version of the proposed legislation included with the agenda was circulated to all of the City Managers of Omnitrans' member agencies for review and comment.

Draft MOU regarding Taxation Authority

At the March 1, 2017 Board meeting, during the Board’s consideration of the draft legislation, Dr. Wolfe raised concerns with Omnitrans’ proposed taxation authority under the draft legislation. Dr. Wolfe voiced concerns about potentially competing tax measures that could be brought forward by SBCTA and Omnitrans, and stated his position that SBCTA, as the regional transportation planning agency, should be the regional entity that brings forward taxation measures related to transportation within San Bernardino County.

At that time, the concept of an MOU under which Omnitrans would agree not to exercise taxing authority provided that SBCTA would take into account Omnitrans’ interests in any SBCTA tax measure was discussed as a means to address the Board’s concern with maintaining the current rights of Omnitrans under its Joint Powers Agreement, while also addressing concerns raised by Dr. Wolfe. The attached draft MOU has been prepared and provided to SBCTA for review and comment.

The original Board direction was to include the restriction on Omnitrans taxation authority in the MOU only. However, based on the comments from and discussion with Dr. Wolfe at the September 7, 2018 Executive Committee meeting, the proposed legislation includes a restriction on Omnitrans’ taxation authority, as detailed above as well as in the MOU. The Executive Committee’s decision was based, in part, in consideration of the procedural rights granted to Omnitrans under the MOU related to any concurrent or new SBCTA taxation measure.

Earlier Background (2017)

On February 3, 2017, at the regular meeting of the Omnitrans Executive Committee, the Committee conducted a review of the Omnitrans governance structure and risk mitigation options related to Omnitrans’ new role as manager of the contract that will provide for the operations and maintenance of the Redlands Passenger Rail Project (RPRP) rail service; the “Arrow”.

Following this review, the Executive Committee determined that changing the structure of Omnitrans from a joint powers authority to a statutorily created entity would be the most effective means of eliminating potential tort liability to member entities of the Omnitrans joint powers authority. The Executive Committee determined that it would be in the best interest of the member entities of Omnitrans to move forward with the process of creating Omnitrans as a special transit district under Division 10 of the Public Utilities Code. It should be noted that there is no intention to change the number of entities; the composition of the Board will remain the same. There is also no intention to change the status of any Omnitrans employees.

Based on the timing of the discussions in the 2017-2018 legislative cycle, it was determined that there was still sufficient time to obtain a spot bill by the February 17, 2017 deadline, and the Executive Committee directed staff and legal counsel to obtain a bill number. A spot bill and a bill author were successfully obtained. At the March 1, 2017 Board meeting, Omnitrans General Counsel Haviva Shane presented this item to the full Board seeking direction as to whether or not to proceed with developing statutory legislation to create a transit district.

A concern was raised by SBCTA Executive Director, Ray Wolfe, regarding Omnitrans retaining taxing authority, which is included as part of the JPA. The Board engaged in a discussion and there was concern expressed from several Members regarding Omnitrans relinquishing a power held under the JPA. The consensus was to move forward with the recommendation to direct Legal Counsel to pursue legislation to form Omnitrans Transit District, with the added direction that an MOU be presented to both SBCTA and Omnitrans Board of Directors stating that both agencies will work together and Omnitrans will not compete for a special tax.

This item was brought back to the Board at the April 5, 2017 meeting. Omnitrans General Counsel, Haviva Shane, presented proposed legislation (AB 548) to create Omnitrans Transit District and asked for further direction from the Board. After a lengthy discussion, the Board decided to suspend the process until the issues were resolved and there was consensus and clear direction moving forward.

Arrow Three Party Agreement

Omnitrans staff is currently working with SBCTA and Metrolink staff on final changes to the three party agreement that defines the roles and responsibilities of each agency as it relates to the Redlands Passenger Rail Project (RPRP) the “Arrow” service. In addition, the Chairman of the Board formed a Rail Ad Hoc Committee to review this agreement and other matters related to the RPRP. As part of the discussions regarding liability, insurance and indemnification in the context of the three party agreement, staff and legal counsel began revisiting the issue of protecting the JPA members from potential liability. As part of the discussions regarding liability, the issue of protecting JPA members from unfunded pension liability was also raised. In response, staff brought back the discussion regarding formation of Omnitrans as a legislatively created transit district for renewed consideration.

CONCLUSION

Staff and legal counsel are seeking any additional input from the Board, and final approval of the proposed legislation, as well as authorization to proceed with identifying a bill author. Input is also sought on the draft MOU between Omnitrans and SBCTA from the Board, as well as authorization for the General Manager/CEO to complete negotiations of the MOU, and execute the MOU, subject to general counsel review.

PSG

Attachment A: Proposed Special Transit District Legislation

Attachment B: Draft Memorandum of Understanding Regarding Omnitrans Transit District
Legislation

September 2018 Update

The People of the State of California do enact as follows:

SECTION 1. Part 19 (commencing with Section 108000) is added to Division 10 of the Public Utilities Code, to read:

Part 19
Omnitrans Transit District

Chapter 1
General Provisions

§ 108000.

This part shall be known and may be cited as the Omnitrans Transit District Act.

§ 108001.

It is the intent of the Legislature in enacting this part to provide for a unified, comprehensive institutional structure for the ownership and governance of a transit system within the County of San Bernardino to develop, provide, operate, and administer public transportation. It is further the intent of the Legislature that the district established by this act shall succeed to the powers, duties, obligations, liabilities, immunities, and exemptions of Omnitrans, a joint powers authority formed pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code), upon its dissolution. Because there is no general law under which such a district could be formed, the adoption of a special act and the formation of a special district is required.

Chapter 2
Definitions

§ 108010.

- (a) Unless the context otherwise requires, the provisions of this chapter govern the construction of this part.
- (b) “District” means the Omnitrans Transit District.
- (c) “Transit” and “transit service” means the transportation of passengers and their incidental baggage and parcels by any means.

- (d) “Transit works” or “transit facilities” means any or all real and personal property, equipment, rights, facilities, title, or interests owned, or to be acquired, by the district for transit service or purposes for the operation thereof.
- (e) “Board of directors,” “board,” and “directors,” means the board of directors of the district.
- (f) “City” means, individually, the Cities of Chino, Chino Hills, Colton, Fontana, Grand Terrace, Highland, Loma Linda, Montclair, Ontario, Rancho Cucamonga, Redlands, Rialto, San Bernardino, Upland and Yucaipa, and any other city within the County of San Bernardino that joins as a member of the district as set forth in this part.
- (g) “County” means, individually, the County of San Bernardino, and any other county which is annexed, in whole or in part, to the district as provided in this part.
- (h) “Board of supervisors” means the County of San Bernardino board of supervisors.
- (i) “Public agency” includes the State of California, and any county, city, district or other political subdivision or public entity of, or organized under the laws of, this state, or any department, instrumentality, or agency thereof.
- (j) “System” means all transit works and transit facilities owned or held, or to be owned or held, by the district for transit purposes.
- (k) “Revenues”, unless otherwise defined herein, means all rates, fares, tolls, rentals, fees, charges or other income and revenue actually received or receivable by, or for the account of, the district from the operation of the system, including, without limiting the generality of the foregoing, interest allowed on any moneys or securities any profits derived from the sale of any securities, any consideration in any way derived from any properties owned, operated, or at any time maintained by the district, and all local, State, federal grants and taxes received by the district.
- (l) “Person” includes any individual, firm, partnership, association, corporation, limited liability company, trust, business trust, or the receiver or trustee or conservator for any thereof, but does not include a public agency, as defined in (i) above.
- (m) “Establish” includes establish, construct, complete, acquire, extend, or reroute. It does not, however, include the maintenance and operation of any existing system acquired by the district.
- (n) “Voter” means any elector who is registered under the Elections Code.
- (o) “Omnitrans JPA” means the joint powers authority formed pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the

Government Code) through that certain joint powers agreement titled “Amended and Restated Joint Powers Agreement between the County of San Bernardino and the Cities of Chino, Chino Hills, Colton, Fontana, Grand Terrace, Highland, Loma Linda, Montclair, Ontario, Rancho Cucamonga, Redlands, Rialto, San Bernardino, Upland, and Yucaipa Creating a County Wide Transportation Authority to be Known as ‘Omnitrans’”, dated July 1, 2016.

“Indebtedness” means bonds, notes or other evidences of indebtedness, and all other obligations, instruments and agreements which are issued or incurred by or on behalf of the District pursuant to any other provision of law to finance the lease, acquisition, construction or improvement of a public improvement or working capital needs.

Chapter 3 Formation of District

§ 108030.

There is hereby created the Omnitrans Transit District, comprising the territory lying within the boundaries of the Cities of Chino, Chino Hills, Colton, Fontana, Grand Terrace, Highland, Loma Linda, Montclair, Ontario, Rancho Cucamonga, Redlands, Rialto, San Bernardino, Upland, Yucaipa, the unincorporated areas of San Bernardino County lying within census tracts: *****INSERT TRACT NOS.*****, as set forth in the 201__ decennial census maps for the State of California on file with the Bureau of the Census, Department of Commerce, Washington, D.C., and other cities that subsequently qualify as members pursuant to the requirements set forth in Section 108032.

§ 108031.

Through compliance with the provisions for annexation, and subject to Chapter 9 of this part, the territory of all or part of any other contiguous city or county may be included within the district.

§ 108032.

Any city within the County of San Bernardino, other than a city specifically listed in Section 108030 that is already included in the district at its formation, may join as a member of the district upon approval by its city council of a resolution approving the city’s joining as a member and a resolution of the district’s board approving the joining of the new member.

§ 108033.

(a) On and after January 1, 2020, Omnitrans JPA shall be dissolved and without the necessity of any further action, the district shall succeed to any or all obligations, liabilities, indebtedness, bonded and otherwise, immunities, and exemptions of Omnitrans JPA and its board of directors.

(b) Upon the dissolution of Omnitrans JPA and without the necessity of any further action, the district shall assume the rights and obligations of Omnitrans JPA under any contract to which Omnitrans JPA is a party and which is to be performed, in whole or in part, on or after the date of dissolution of Omnitrans JPA.

(c) Upon the dissolution of Omnitrans JPA and without the necessity of any further action, all real and personal property owned by Omnitrans JPA shall be transferred to the district.

(d) On and after the date of dissolution of Omnitrans JPA, any reference in any provision of law or regulation to Omnitrans JPA shall be deemed to refer to the district.

Chapter 4 Government of District

§ 108040.

The district shall be governed by a board of directors. All powers, privileges, and duties vested in or imposed upon the district shall be exercised and performed by and through the board of directors provided, however, that the exercise of all executive, administrative, and ministerial power may be delegated and re-delegated by the board of directors to any of the offices, officers, or committees created pursuant to this chapter or created by the board of directors acting pursuant to this chapter.

§ 108041.

The board of directors shall consist of twenty (20) members.

(a) The board shall be composed of one primary representative selected by the governing body of each city that is a member of the district and four (4) members of the San Bernardino County Board of Supervisors to serve until recalled by the governing body of the city or county. Each director shall be a mayor, councilperson, or supervisor of the governing body which selected him or her. Vacancies shall be filled in the same manner as originally selected.

(b) Each city and the county shall also select in the same manner as the primary or secondary representative, if applicable, one alternate to serve on the board when the primary representative is not available. Whenever the alternate director serves on the board, the alternate director shall have all the powers of a regular director.

(c) The board may allow for the appointment of advisory representatives to sit with the board but in no event shall said representatives be allowed a vote.

(d) The board may increase the number of board members, or change the method of selection of board members, by resolution, to accommodate new member cities that join the district pursuant to Section 108032.

§ 108042.

The board, at its first meeting, and biannually thereafter at the first meeting in June, shall elect a chairperson who shall preside at all meetings, and a vice-chairperson who shall preside in his/her absence. The chairperson and the vice-chairperson shall serve two-year terms. Notwithstanding the foregoing, the vice-chairperson shall become chairperson for the subsequent two-year term in the absence of a vote by the board of directors to the contrary. In the event of their absence or inability to act, the member present, by an order entered in the minutes, shall select one of their members to act as chairperson *pro tem*, who, while so acting, shall have all the authority of the chairperson.

§ 108043.

The officers of the board shall consist of the members of the board of directors, the chairperson and vice chairperson of the board, a secretary, a general manager, a general counsel, and any other officers that the board deems necessary and provides for in its bylaws, or by ordinance or resolution.

§ 108044.

The board shall appoint and fix the salary of a general manager who shall have full charge of the acquisition, construction, maintenance, and operation of the facilities of the district, and of the administration of the business affairs of the district.

§ 108045.

The board of directors shall do all of the following::

- (a) Adopt bylaws for its procedures consistent with the laws of the state.
- (b) Adopt an annual budget.
- (c) Adopt a conflict-of-interest code.
- (d) Adopt priorities reflecting the district's goals.
- (e) Establish the amount of compensation that each member of the board shall receive.
- (f) Do any and all things necessary to carry out the purposes of this part.

§ 108046.

A majority of the board or of a standing committee entitled to vote constitutes a quorum for the transaction of business. All official acts of the board or a standing subcommittee of the board require the affirmative vote of a majority of the board or committee members present.

§ 108047.

The acts of the board of directors shall be expressed by motion, resolution or ordinance.

§ 108048.

All meetings of the board of directors shall be conducted in the manner prescribed by the Ralph M. Brown Act (Chapter 9 (commencing with § 54950), Part 1, Division 2, Title 5, of the Government Code).

Chapter 5
Powers and Functions of District
Article 1
Corporate and General Powers of District

§ 108050.

The district shall have the power to own, operate, manage, and maintain a public transit system and associated facilities, and, in the exercise of the power under this part, the district is authorized in its own name to exercise all rights and powers, expressed or implied, that are necessary to carry out the purposes and intent of this part, including, but not limited to, the power to do all of the following:

- (a) Sue and be sued.
- (b) Employ agents and employees, and contract for services, and to define the qualifications and duties for agents, employees and contractors.
- (c) To enter into and perform all necessary contracts.
- (d) To adopt a seal and alter it at the district's pleasure.
- (e) To enter joint powers arrangements with other entities.
- (f) Appoint such advisory, standing, or ad hoc committees as it deems necessary.
- (g) Enact ordinances, resolutions, policies, and guidelines.
- (h) Acquire, convey, construct, manage, maintain, and operate buildings and improvements, equipment, and assets of the district.
- (i) Acquire, convey, and dispose of real and personal property, easements, and licenses.
- (j) Adopt a conflict-of-interest code.

(k) To acquire (by the exercise of the power of eminent domain or otherwise), hold, lease, sublease, sell or otherwise dispose of any real or personal property, tangible or intangible, equipment, and facilities.

(l) Create and administer funds and the distribution of those funds.

(m) Create and enact taxes, fees, fares, and penalties, as permitted by law.

(n) Advocate on behalf of the district.

(o) Develop and pursue ballot measures.

(p) Enforce criminally or civilly, as applicable, any and all ordinances, resolutions, and policies as permitted by law.

(q) Issue, incur and encumber Indebtedness. However, the debts, obligations, and liabilities incurred by the district shall not be, nor shall they be deemed to be, debts, encumbrances, obligations, or liabilities of any member.

(r) Invest money in the district treasury that is not needed for immediate necessities, as the board determines advisable, in the same manner and upon the same conditions as other local entities in accordance with Section 53601 of the Government Code.

(s) Pursue collection of obligations owed to the district.

(t) Exercise the right and power of eminent domain to take any property necessary or convenient to the exercise of the powers granted in this part.

(u) Subject to applicable law, provide transportation services or facilities outside the district's jurisdictional boundaries provided a finding is made by the board that those services or facilities benefit the citizens or users of the transportation service or facilities.

(v) Do and undertake any and all other acts reasonable and necessary to carry out the purposes of this part.

§ 108051.

All claims for money or damages against the district are governed by Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, except as provided herein, or by other statutes or regulations expressly applicable thereto.

Article 2
Contracts

§ 108060.

The district may make contracts and enter into stipulations of any nature whatsoever, employ labor, and do all acts necessary and convenient for the full exercise of the powers granted in this part.

§ 108061.

The district may contract with any department or agency of the United States of America, with any public agency or with any person upon such terms and conditions as determined to be in the best interest of the district.

§ 108062.

The Legislature finds and declares that there is a compelling interest in ensuring that all federal, state, local, and private funds available to the district are captured and used in a timely manner. In order to maximize the use of federal, state, local, and private funds and to maintain a competitive posture in seeking supplemental federal funds, the district shall have the authority to establish and use a flexible contracting process to maximize efficient use of public funds.

§ 108063.

The district may insure against any accident or destruction of the system or any part thereof. The district may insure against loss of revenues from any cause whatsoever. It may provide, in the proceedings authorizing the issuance of any bonds, for the carrying of insurance in such amount and of such character as may be specified, and for the payment of the premiums thereon. The district may also provide insurance as provided in Part 6 (commencing with Section 989), Division 3.6, Title 1 of the Government Code.

Article 3
Transit Facilities and Services; Consolidated Transportation Agency

§ 108070.

The district may provide transit service for the transportation of passengers and their incidental baggage by any means including, but not limited to, through the operation of buses, specialized transit vehicles, and passenger rail service.

§ 108071.

The district may lease or contract for the use of its transit facilities, or any portion thereof, to any operator, and may provide for subleases by the operator upon any terms and conditions it deems in the public interest. As used in this section, “operator” means any public agency or any person.

§ 108072.

The district may contract with any public agency or person to provide transit facilities and services for the district.

§ 108073.

(a) The district may construct and operate or acquire and operate transit works and facilities in, under, upon, over, across, or along any state or public street or highway or any stream, bay or water course, or over any of the lands which are the property of the state, to the same extent that such rights and privileges appertaining thereto are granted to municipalities within the state.

(b) Prior to constructing or acquiring transit works and facilities under subsection (a) of Section 108073, district planning staff shall meet and confer with planning staff of the San Bernardino County Transportation Authority regarding such proposed transit works or facilities to avoid duplication of efforts, to assess financial feasibility of on-going operations and maintenance, and to maximize resources for transit planning and implementation.

§ 108074.

The district may enter into agreements for the joint use of any property and rights by the district and any public agency or public utility operating transit facilities; may enter into agreements with any public agency or public utility operating any transit facilities, and wholly or partially within or without the district, for the joint use of any property of the district or of the public agency or public utility, or the establishment of through routes, joint fares, transfer of passengers or pooling arrangements.

Article 4

Taxation; Other Fees and Indebtedness

§ 108080.

(a) The district may levy a retail transactions and use tax applicable in the incorporated and unincorporated territory of the county in accordance with this chapter and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code. The ordinance shall only become effective if adopted by a two-thirds vote of the board and subsequently approved by the electors voting on the measure at a special election called for the purpose by the board of supervisors or at any regular election.

(b) The tax ordinance shall take effect at the close of the polls on the day of election at which the proposition is adopted. The initial collection of the transactions and use tax shall take place in accordance with (f) below.

(c) If, at any time, the voters do not approve the imposition of the transactions and use tax, this chapter remains in full force and effect. The board may, at any time thereafter, submit the same, or a different, measure to the voters in accordance with this chapter.

(d) The ordinance shall state the nature of the tax to be imposed, the tax rate or the maximum tax rate, the purposes for which the revenue derived from the tax will be used, and may set a term during which the tax will be imposed. Tax revenues shall be used only for public transit purposes of the district, including administration of this division and legal actions related thereto. The ordinance shall contain an expenditure plan that shall include an allocation of revenues.

(e) As used in this section, “public transit purposes” includes the public transit responsibilities under the jurisdiction of the district as well as any repair, redesign, or ongoing maintenance of a district facility, any right-of-way upon which transit is intended to travel, or any bikeway, bicycle path, sidewalk, trail, pedestrian access, or pedestrian accessway, and all costs and expenses related thereto.

(f) Any transactions and use tax ordinance adopted pursuant to this article shall be operative on the first day of the first calendar quarter commencing more than 150 days after adoption of the ordinance.

(g) Prior to the operative date of the ordinance, the district shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of the ordinance. The costs to be covered by the contract may also include services of the types described in Section 7272 of the Revenue and Taxation Code for preparatory work up to the operative date of the ordinance. Any disputes as to the amount of the costs shall be resolved in the same manner as provided in that section.

(h) The district, subject to the approval of the voters, may impose a maximum tax rate of one-half of 1 percent under this article and Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code. The district shall not levy the tax at a rate other than one-half or one-fourth of 1 percent unless specifically authorized by the Legislature.

(i) Prior to adopting an ordinance in accordance with this Section 108080, the district shall obtain the approval by resolution of the board of the San Bernardino County Transportation Authority of the proposed district tax.

§ 108081.

If approved as required by law, the district may impose and administer fees and other funding sources secured for transportation system operation, maintenance, and improvement.

§ 108082.

The board may set fares for public transit service by resolution.

§ 108083.

As an alternative procedure for the raising of funds, the district may issue bonds, payable from revenues of any facility or enterprise to be acquired or constructed by the district, in the manner provided by the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code), all of the provisions of which are applicable to the district.

§ 108084.

The district is a local agency within the meaning of the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code). The term "enterprise" as used in the Revenue Bond Law of 1941 shall, for all purposes of this part, include transit facilities and any and all parts thereof and all additions, extensions, and improvements thereto and all other facilities authorized acquired, constructed, or completed by the district. The district may issue revenue bonds under the Revenue Bond Law of 1941, for any one or more facilities or enterprises authorized to be acquired, constructed, or completed by the district, or, in the alternative, may issue revenue bonds under the Revenue Bond Law of 1941, for the acquisition, construction, and completion of any one of those facilities. Nothing in this part shall prevent the district from availing itself of, or making use of, any procedure provided in this part for the issuance of Indebtedness of any type or character for any of the facilities or works authorized under this part, and all proceedings may be carried out simultaneously or, in the alternative, as the directors may determine.

§ 108085.

The district may advocate on and act on behalf of all members with their concurrence to further the district's transit interests, funding, projects, and priorities.

§ 108086.

The district may promulgate a plan for funding transit projects or operations within its jurisdiction or as permitted in subdivision (u) of Section 108050.

Chapter 6
Rights of Employees of Omnitrans

§ 108090.

When the district acquires existing facilities, rights and obligations of Omnitrans JPA, all of the employees of Omnitrans JPA shall be appointed to the same positions by the district. These employees shall be given sick leave, seniority, vacation credits, retirement benefits and all other rights and obligations which they have with Omnitrans JPA, upon the transfer of Omnitrans JPA to district.

§ 108091

The district shall provide employee retirement benefits under the program administered by the California Public Employees' Retirement System or other system permitted by law.

Chapter 7
Liability of members

§ 108100.

The members, whether individually or collectively, shall not be liable for any act or omission of the district, including, but not limited to, any of the following:

- (a) Performing any and all things necessary to carry out the purposes of this part.
- (b) Any act of the district, or for any act of the district's agents or employees.
- (c) The payment of wages, benefits, or other compensation to officers, agents, or employees of the district.
- (d) The payment of workers' compensation or indemnity to agents or employees of the district for injury, illness, or death.

Chapter 8
Changes of Organization or Reorganization

§ 108200.

- (a) Territory within the district may be detached from the district by a supermajority vote of the directors, which shall be at least 80 percent of the nonweighted vote of the existing board provided that all pending legal and financial obligations have been satisfied.
- (b) The detachment of territory from the district shall become effective upon giving of the notice required in Section 57204 of the Government Code, provided that the detached territory shall not be relieved from liability for taxation for the payment of any bonded indebtedness existing at the time of detachment.
- (c) Notice of the detachment of territory from the district shall be given to each assessor whose roll is used for a tax levy made pursuant to this part and with the State Board of Equalization pursuant to Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code.

Chapter 9

Application of the Cortes-Knox-Hertzberg Local Government Reorganization Act of 2000

§ 108300.

(a) The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Part 1 (commencing with Section 56000) Division 3 of Title 5 of the Government Code), shall not apply to the formation or dissolution of the district.

(b) For annexations, any territory annexed into a member city, shall automatically be annexed into the district. For annexation of territory in the unincorporated county into the district, such annexation shall require approval of the board.

(c) New cities may join the district as set forth in Section 108032.

Chapter 10

Dissolution

§ 108400.

(a) The district may be dissolved upon a supermajority vote of the directors which shall be at least 80 percent of the nonweighted vote of the board. However, the winding up of the district shall be conducted by the board and the general manager. The district shall not be fully dissolved and terminated until all debts, financial obligations, and liabilities are paid in full and any and all remaining assets after payment of all debts, financial obligations, and liabilities are distributed to the members.

(b) Distribution to each member shall be made in the same proportion as that reflected in the accumulated capital contribution accounts from the records of the Omnitrans JPA, as shown and maintained by the district's finance director in the district's books of accounts. Cash may be distributed in lieu of property or equipment.

(c) (1) If the directors cannot agree as to the valuation of the property or to the manner of asset distribution, the question shall be submitted to arbitration, as set forth below, and the directors shall make the distribution or valuation as directed by arbitrators.

(2) Three arbitrators shall be appointed by the board.

(3) The arbitration shall be binding and shall be conducted pursuant to Title 9 (commencing with Section 1280) of the Code of Civil Procedure. Any hearings shall be held within the county. All notices, including notices under Section 1290.4 of the Code of Civil Procedure shall be given to the governing body of each member.

§ 108401.

The board shall wind up the affairs of the district.

DRAFT

**MEMORANDUM OF UNDERSTANDING
REGARDING OMNITRANS TRANSIT DISTRICT LEGISLATION**

This MEMORANDUM OF UNDERSTANDING (“MOU”) is entered into by and between the San Bernardino County Transportation Authority (“SBCTA”), established by the San Bernardino County Transportation Authority Consolidation Act of 2017, Ch. 7 (commencing with § 130800) of Div. 12 of the Public Utilities Code and Omnitrans, a Joint Powers Authority (“Omnitrans”) established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, and any successor statutory entity succeeding to the rights, duties and obligations of Omnitrans. SBCTA are sometimes referred to herein, individually, as “Party” and collectively as the "Parties," with reference to the following facts:

RECITALS

WHEREAS, SBCTA is the San Bernardino County transportation commission responsible for short and long range transportation planning within San Bernardino County (“County”), including coordination and approval of all public mass transit service, approval of all capital development projects for public transit and highway projects, and determination of staging and scheduling of construction relative to all transportation improvement projects in the Transportation Improvement Program.

WHEREAS, SBCTA is responsible for administration of Measure I, the half-cent retail transportation transactions and use tax approved by County voters in 2004 dedicated for local transportation purposes as defined in SBCTA Ordinance 04-01 which is in effect until 2040.

WHEREAS, Measure I supports transit services by providing funding for Express Bus/Bus Rapid Transit Service, Metrolink/Rail Service, and Senior and Disabled Transit Services.

WHEREAS, SBCTA provides local, state and federal funds to Omnitrans for transit services, including Measure I funds.

WHEREAS, Omnitrans is the public transit agency serving the San Bernardino Valley area of San Bernardino County, operating local and express bus routes, sbX rapid bus transit service, OmniGo hometown shuttle service, Access paratransit service, and is preparing to operate the Arrow Hybrid Rail Service between San Bernardino and Redlands.

WHEREAS, the Omnitrans Board of Directors has directed Omnitrans staff to proceed with efforts to change the structure of Omnitrans from a Joint Powers Authority to a statutory transit district.

WHEREAS, as part of this effort, Omnitrans staff has presented draft legislation to the Omnitrans Board of Directors to create Omnitrans Transit District.

WHEREAS, as part of its authorities, and consistent with its rights under the Omnitrans Joint Powers Agreement, the draft legislation provides taxing authority to Omnitrans.

WHEREAS, SBCTA is concerned with the potential negative implications of multiple transportation related taxing entities within the same jurisdiction.

WHEREAS, and the Parties have agreed to enter into this MOU to express the intent of the Parties that Omnitrans: (1) will obtain SBCTA Board approval before adopting a transit district tax ordinance; and (2) will be given an opportunity to provide input into the development of future transportation tax measures as it relates to transit services in San Bernardino Valley.

WHEREAS, the SBCTA and Omnitrans Board of Directors possess full authority to enter into this MOU.

NOW, THEREFORE, IT IS AGREED by the Parties hereto as follows:

TERMS

1. Incorporation of Recitals. The recitals set forth above are true and correct and are incorporated into this MOU by reference as though fully set forth herein.

2. Effective date of Agreement. This Agreement will be effective upon the effective date of legislation forming Omnitrans as a statutory transit district with taxation authority.

3. Agreement of Omnitrans.

Omnitrans agrees to obtain the approval by resolution of the Board of the San Bernardino County Transportation Authority before adopting a transit district tax (Omnitrans Tax) ordinance. Omnitrans agrees to provide SBCTA six (6) months' notice of Omnitrans' intent to request SBCTA Board approval of an Omnitrans Tax.

4. Agreement of SBCTA.

a. SBCTA agrees that the SBCTA Board will consider an Omnitrans Board request for an SBCTA Board resolution approving an Omnitrans Tax within sixty (60) days of receipt of such request.

b. Notwithstanding Omnitrans' request for SBCTA Board approval of an Omnitrans Tax, SBCTA shall consider, in good faith and in accordance with the procedures set forth below, inclusion of dedicated funding for transit services in concurrent or future SBCTA transportation tax ordinances.

5. Procedures for Concurrent or Future SBCTA Transportation Tax Ordinances.

a. SBCTA shall notify Omnitrans of any upcoming concurrent or future SBCTA tax measure. Notification shall be provided in a timely manner so as to allow sufficient time for completion of the actions set forth in the paragraphs below.

b. Following such notification, SBCTA and Omnitrans staff shall meet and confer to review and evaluate any request by Omnitrans for dedicated transit funding under the proposed SBCTA transportation tax ordinance.

c. Any request by Omnitrans for dedicated transit funding shall be formally transmitted to SBCTA staff and shall include the following information, to the extent applicable:

- i. Specific purpose of the requested transit funding;
- ii. Estimated capital cost for each component requested;
- iii. Estimated annual operations cost for each component requested that identifies the estimated funding needed for each fiscal year for the life of the proposed ordinance; and
- iv. Any potential impact on other fund sources currently allocated to Omnitrans.

d. The Parties shall convene an ad hoc committee comprised of Omnitrans and SBCTA Board members to evaluate and discuss the request for transit funding. The ad hoc committee will be comprised of three Board members from each Party, to be appointed by the Board Chairs of the Parties. The Executive Director of SBCTA and the CEO/General Manager of Omnitrans, or their designees, shall provide advisory staff services to the ad hoc committee. The ad hoc committee will make a recommendation to the Omnitrans and SBCTA Boards of Directors regarding such request.

6. Term. This MOU shall remain in full force and effect from the effective date until terminated by mutual agreement of the Parties.

7. Notice. Any notice, request or demand made between the Parties pursuant to this MOU shall be directed as follows:

SBCTA

1170 W. 3rd Street, 2nd Floor
San Bernardino, CA 92410
Attn: Executive Director

OMNITRANS

1700 West 5th Street
San Bernardino, CA 92411
Attn: CEO/General Manager

8. Severability. If any clause or provision of this MOU is found to be illegal, invalid or unenforceable under applicable present or future laws, then it is the intention of the Parties that the remainder of this MOU shall not be affected but shall remain in full force and effect.
9. Entire Agreement. This MOU contains the entire agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This MOU may only be supplemented, amended, or modified by a writing signed by both Parties.
10. Governing Law. This MOU shall be governed by the laws of the State of California. Venue shall be in San Bernardino County.
11. Counterparts. This MOU may be signed in counterparts, each of which shall constitute an original.

[Signatures on following page]

MEMORANDUM OF UNDERSTANDING

REGARDING OMNITRANS TRANSIT DISTRICT LEGISLATION

**SAN BERNARDINO COUNTY
TRANSPORTATION AUTHORITY**

OMNITRANS

By: _____
Raymond W. Wolfe
Executive Director

By: _____
P. Scott Graham
CEO/General Manager

Date: _____

Date: _____

APPROVED AS TO FORM

APPROVED AS TO FORM:

By: _____
Eileen Monaghan Teichert
General Counsel

By: _____
Haviva Shane
Omnitrans General Counsel

DRAFT

ITEM # F3

DATE: October 3, 2018

TO: Board Chair Ron Dailey and Members of the Omnitrans Board of Directors

THROUGH: P. Scott Graham, CEO/General Manager

FROM: Eugenia Pinheiro, Contracts Manager

**SUBJECT: AUTHORIZE AWARD - CONTRACT HRS19-04
WORKERS' COMPENSATION CLAIMS ADMINISTRATION
SERVICES**

FORM MOTION

Authorize the CEO/General Manager to award Contract HRS19-04 to Pacific Claims Management, Inc. of Fresno, CA, for the provision of Workers' Compensation Claims Administration Services for three (3) base years beginning December 1, 2018 and ending no later than November 30, 2021, and the authority to exercise two (2) single option years, extending the contracts to no later than November 30, 2023, in the amount of \$984,540, plus a ten percent contingency of \$98,454 for total amount not-to-exceed \$1,082,994, should all option years be exercised.

BACKGROUND

Omnitrans is self-insured and self-administers its workers' compensation program. Omnitrans contracts with a third party administrator (TPA) to perform investigations, evaluations, and manage the workers' compensation claims. The TPA applies cost containment strategies and aggressively pursues fraud and subrogation cases. The current contract HRS13-182 expires November 30, 2018.

On July 11, 2018, Omnitrans' Board of Directors authorized the CEO/General Manager to release Request for Proposals RFP-HRS19-04. Notices were published in two (2) local newspapers of general circulation and posted on Omnitrans' online bidding system.

Five proposals were received by the August 13, 2018 deadline, all were deemed responsive, and evaluated in accordance with the selection criteria included in the RFP.

The firms are ranked from highest to lowest score:

Selection Criteria	Total Possible Points	Pacific Claims Management of Fresno, CA	AdminSure, Inc. of Ontario, CA	TRISTAR Risk Management of Long Beach, CA	JT2 Integrated Resources of Oakland, CA	Intercare Holdings Insurance Services, Inc. of Orange, CA
Cost Savings	35	29.17	26.25	28.58	30.92	29.17
Qualification of the Firm	25	21.25	20.00	18.33	18.33	20.00
Quality of Work Plan	25	20.83	18.75	21.25	16.67	17.08
Technical Total	85	71.25	65.00	68.17	65.92	66.25
Price	15	13.99	15.00	10.06	10.69	9.54
Total Points	100	85.24	80.00	78.23	76.61	75.79
5-Year Pricing		\$984,540	\$918,120	\$1,369,592	\$1,288,225	\$1,435,665

At the conclusion of the evaluations, it was determined that all firms met minimum requirements and were requested to submit their Best & Final Offer (BAFO). The firms pricing scores were adjusted accordingly and are ranked from highest to lowest score:

BAFO

Selection Criteria	Total Possible Points	Pacific Claims Management of Fresno, CA	AdminSure, Inc. of Ontario, CA	TRISTAR Risk Management of Long Beach, CA	JT2 Integrated Resources of Oakland, CA	Intercare Holdings Insurance Services, Inc. of Orange, CA
Technical Total	85	71.25	65.00	68.17	65.92	66.25
Price	15	13.43	15.00	10.02	10.67	9.41
Total Points	100	84.68	80.00	78.19	76.59	75.66
5-Year Pricing		\$984,540	\$881,388	\$1,319,046	\$1,239,538	\$1,396,865

Pacific Claims Management (PCM) was deemed responsible and scored highest technically. Although PCM’s BAFO pricing did not change, the firm maintained the overall highest ranking. Their proposed program includes a local Medical Provider Network, excellent cost containment practices, aggressive pursuit of claims resolution and subrogation to maximize recoveries. PCM has experience with government and transit agencies, and received excellent references from Riverside Transit Agency and Monterey-Salinas Transit District. As Omnitrans’ current provider, PCM has delivered and sustained substantial savings during the term of the existing contract. PCM offered the second lowest pricing among the five firms and is \$5,820 less than the Independent Cost Estimate of \$990,360, and therefore, pricing is deemed fair and reasonable.

The Evaluation Committee’s recommendation for this item was reviewed by Internal Audit. This procurement meets the requirements of Omnitrans’ Procurement Policies and Procedures.

FUNDING SOURCE

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

