



**ADMINISTRATIVE & FINANCE**  
**MAY 14, 2020**  
**SUPPLEMENTAL INFORMATION**

<b>ITEM #E4</b>	<b>SUPPLY OF COMPRESSED NATURAL GAS (CNG)</b>
<b>ITEM #E5</b>	<b>GRANT SERVICES</b>
<b>ITEM #E6</b>	<b>BROKER SERVICES FOR SUPPLEMENTAL INSURANCE</b>



## CONTRACT AGREEMENT

between

Clean Energy  
4675 MacArthur Court, Suite 800  
Newport Beach, CA 92660

(hereinafter "CONTRACTOR")  
Telephone: 949-437-1000  
Email: [Derek.Turbide@cleanenergyfuels.com](mailto:Derek.Turbide@cleanenergyfuels.com)

And

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

### CONTRACT DOCUMENTS

CONTRACT NO. STS20-19

### SUPPLY OF COMPRESSED NATURAL GAS (CNG)

Contract Amount: \$927,000.00

#### Omnitrans Project Manager:

Name: Frank Quass  
Title: Purchased Transportation  
Administrator  
Telephone: (909) 379-7212  
Email: [frank.quass@omnitrans.org](mailto:frank.quass@omnitrans.org)

#### Contract Administrator:

Name: Frank Holland  
Title: Sr. Contracts Administrator  
Telephone: (909) 379-7186  
Email: [frank.holland@omnitrans.org](mailto:frank.holland@omnitrans.org)



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ATTACHMENT A – SCOPE OF WORK

ATTACHMENT B – PRICING FORM

ATTACHMENT C – WEAPONS PROHIBITED IN THE WORKPLACE

This Agreement is made and entered into as of this 1st day of July, 2020, by and between Omnitrans (hereinafter referred to as "OMNITRANS") and Clean Energy (hereinafter referred to as "CONTRACTOR").

## **RECITALS**

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

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

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

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

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

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

The term of this Agreement shall be from the date of execution of this Agreement and continue in effect through June 30, 2023, unless terminated as specified in Section 10 and 11 of this Agreement. Omnitrans has no obligation to purchase any specified amount of products/services. All applicable indemnification provisions in this Agreement shall remain in effect following the termination of this Agreement.

Omnitrans' election to extend the Agreement beyond the Initial Term shall not diminish its right to terminate the Agreement for Omnitrans' convenience or CONTRACTORS default as provided elsewhere in this Agreement. The "maximum term" of this Agreement shall be the period extended from July 1, 2023 through June 30, 2025, which period encompasses the Initial Term and Option Year One and Option Year Two.

### **3. CONTRACT OPTIONS**

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

### **4. COMPENSATION**

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

Pump price minus \$0.30 discount.

OMNITRANS' maximum cumulative payment obligation under this Agreement shall not exceed Nine Hundred Twenty-Seven Thousand Dollars (\$927,000.00), including all amounts payable to CONTRACTOR for all costs, including but not limited to direct labor, other direct costs, subcontracts, indirect costs including, but not limited to, leases, materials, taxes, insurance, and profit.

## 5. INVOICING AND PAYMENT

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

CONTRACTOR shall submit invoices in duplicate to:

OMNITRANS  
1700 West Fifth Street  
San Bernardino, CA 92411  
Attn: Accounts Payable  
[Accountspayable@omnitrans.org](mailto:Accountspayable@omnitrans.org)  
[contracts@omnitrans.org](mailto:contracts@omnitrans.org)

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

- Contract number
- Invoice number
- Description of fueling
- Date of fueling
- Total quantity fueled
- Information as requested by OMNITRANS

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

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

- C. Prompt Payment Clause

Omnitrans has, by a contract clause pursuant to 49 CFR 26.29; "Prompt Payment Mechanisms for Recipients", adopted a prompt payment provision on all DOT-assisted contracts, to facilitate timely payment to all subcontractors. This provision, governing the payment to subcontractors (DBEs and non-DBEs), requires the Prime Contractor to issue payment to all subcontractors for satisfactory work performed, no later than seven (7) days from Contractor's receipt of payment from Omnitrans. A provision will

also apply to the disbursement of retention proceeds withheld by Prime Contractor, requiring the prompt return of retention payments from Contractor to the subcontractor no later than seven (7) days Omnitrans after the subcontractor's work is satisfactorily completed. Prime Contractor will incorporate these prompt payment provisions in all subcontract agreements issued by Prime Contractor with respect to this Contract.

In accordance with §26.29 "Prompt Payment Provisions", Omnitrans at its discretion, utilizes the following method to comply with the prompt payment of retainage requirement:

Hold retainage from the Prime Contractor and require a contract clause obligating Prime Contractor to make prompt and full payment of any retainage kept by Prime Contractor to the subcontractor within 7 days after the subcontractor's work is satisfactorily completed.

Failure to comply with these prompt payment provisions or delay in issuing payment without prior written approval from Omnitrans will constitute noncompliance, which will result in the application of appropriate administrative sanctions, including, but not limited to, a penalty of 1% of the amount due per month to the affected subcontractor for every month that payment is not made.

Contractor will not be reimbursed for work performed by subcontractors unless and until the contractor ensures that the subcontractors are promptly paid for the work performed. Contractor shall include a prompt payment clause that complies with local, state, and federal prompt payment requirements in all subcontracts entered into under this contract. Should contractor fail to meet subcontractor prompt payment requirements for two (2) consecutive subcontractor payments without good cause, OMNITRANS may impose appropriate penalties for failure to comply with prompt payment requirements.

## **6. AUDIT AND INSPECTION OF RECORDS**

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



## **7. NOTIFICATION**

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

To OMNITRANS:

Omnitrans

1700 West Fifth Street

San Bernardino, CA 92411

Attn: Frank Holland

Title: Sr. Contracts Administrator

To CONTRACTOR:

Clean Energy

4675 MacArthur Court, Suite 800

Newport Beach, CA 92660

Attn: Derek Turbide

Title: Regional Vice President

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

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

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

Project Manager: Frank Quass, Purchased Transportation Administrator

- 1) Except as expressly specified in this Agreement, the Contracting Officer may exercise any powers, rights and/or privileges that have been lawfully delegated by OMNITRANS. Nothing in this Agreement should be construed to bind OMNITRANS for acts of its officers, employees, and/or agents that exceed the delegation of authority specified herein.
- 2) The Contracting Officer has delegated to the Project Manager certain powers and duties in connection with this Agreement. The Project Manager is the authorized representative of the Contracting Officer for matters related to this Agreement. The Project Manager or his/her designee is empowered to:



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

#### **10. TERMINATION FOR CONVENIENCE**

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

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

- A. If CONTRACTOR fails to perform any of the provisions of this Agreement or so fails to make progress as to endanger timely performance of this Agreement, OMNITRANS may give CONTRACTOR written notice of such default. If CONTRACTOR does not cure such default or provide a plan to cure such default which is acceptable to OMNITRANS within the time permitted by OMNITRANS, then OMNITRANS may terminate this Agreement due to CONTRACTOR's breach of this Agreement.
- B. If a federal or state proceeding for relief of debtors is undertaken by or against CONTRACTOR, or if CONTRACTOR makes an assignment for the benefit of creditors, then OMNITRANS may immediately terminate this Agreement.
- C. If CONTRACTOR violates Section 29, Compliance with Lobbying Policies, of this Agreement, then OMNITRANS may immediately terminate this Agreement.

- D. In the event OMNITRANS terminates this Agreement as provided in this Section, OMNITRANS may procure, upon such terms and in such manner as OMNITRANS may deem appropriate, work similar in scope and level of effort to those so terminated, and CONTRACTOR shall be liable to OMNITRANS for all of its costs and damages, including, but not limited, any excess costs for such Work.
- E. All finished or unfinished documents and materials produced or procured under this Agreement shall become OMNITRANS' property upon date of such termination.
- F. If, after notice of termination of this Agreement under the provisions of this Section, it is determined for any reason that CONTRACTOR was not in default under the provisions of this Section, or that the default was excusable under the terms of this Agreement, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Section 10, Termination for Convenience.
- G. The rights and remedies of OMNITRANS provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

## **12. LIQUIDATED DAMAGES**

- A. Contractor's failure to maintain minimum fuel requirement(s) as required by the scope of work that result in Omnitrans' inability to fuel its vehicles will call for Liquidated Damages to be assessed against the Contractor.
- B. Assessment of damages shall be calculated as follows:
  - Supply of off-site CNG
  - 1) Omnitrans and Contractor agree that in the event of any such fueling disruption the amount of damage which will be sustained shall be determined by Omnitrans' actual lost revenue and incurred expenses, but not to exceed \$250 per day per vehicle.
- C. These damages shall be deducted from any monies due, or which may thereafter become due, to Contractor under this Contract.
- D. Omnitrans documentation will serve as the record of fact when assessing liquidated damages.
- E. Force Majeure applies:
  - 1) When it is beyond the control of Contractor to provide the service requirements contained in this contract, the Liquidated Damages will be prorated accordingly.
  - 2) Omnitrans shall be the sole judge of the applicability of the Force Majeure clause as relates to Liquidated Damages.

### 13. ASSIGNMENT

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

### 14. SUBCONTRACTING

- A. OMNITRANS hereby consents to CONTRACTOR's subcontracting of portions of the Work to the parties identified below for the functions described in CONTRACTOR's proposal. CONTRACTOR shall include in each subcontract agreement the stipulation that CONTRACTOR, not OMNITRANS, is solely responsible for payment to the subcontractor for all amounts owing and that the subcontractor shall have no claim, and shall take no action against OMNITRANS, Member Agencies or officers, directors, employees or sureties thereof for nonpayment by CONTRACTOR.
- B. CONTRACTOR shall not, without the express written consent of Omnitrans, either:
- 1) Substitute any person, firm, or corporation as subcontractor in place of the subcontractors identified below; or
  - 2) Permit any subcontract to be assigned or transferred; or
  - 3) Allow work to be performed by anyone other than the original subcontractor listed below.

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

- C. CONTRACTOR shall report subcontractor awards and payments via a Web-based system on a monthly basis unless Omnitrans approves in writing the use of a Subcontractors Paid Report and Payment Verification form.

## **15. INDEPENDENT CONTRACTOR**

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

## **16. INSURANCE**

### **A. INSURANCE REQUIREMENTS**

#### **1) General Requirements for Contractor**

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

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

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

#### **3) Other Insurance Provisions**

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

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

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

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

**b. Workers' Compensation**

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

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

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

**4) Acceptability of Insurers**

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

**5) Verification of Coverage**

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

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

**6) Subcontractors**

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

**7) Notification of Terminated Insurance**

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

**B. MINIMUM INSURANCE COVERAGE**

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

- 1) ☒ **Commercial General Liability including Products/Completed Operations:** \$1,000,000; per occurrence for bodily and property damage liability and \$2,000,000 aggregate; *Omnitrans named and endorsed as an Additional Insured.*
- 2) ☒ **Automobile Liability:** \$1,000,000; per occurrence for bodily and property damage liability and aggregate; *Omnitrans named and endorsed as an Additional Insured.*
- 3) ☐ **Errors and Omissions Liability:** \$1,000,000; combined single limit bodily and property damage liability per occurrence and \$3,000,000 aggregate or,
- 4) ☐ **Professional Liability:** \$1,000,000; per occurrence and aggregate.
- 5) ☒ **Workers' Compensation:** statutory limits or,
- 6) ☐ **Self Insurance Program:** a State Approved program in an amount and form that meets all applicable requirements of the Labor Code of the State of California.
- 7) ☒ **Employer's Liability:** \$1,000,000; per occurrence.
- 8) ☐ **Environmental Liability:** \$1,000,000; per occurrence and aggregate; *Omnitrans named and endorsed as an Additional Insured.*



- 9) ☐ **Umbrella Policy:** \$4,000,000; per occurrence and aggregate Additional coverage for the above policies, *Omnitrans Additional Insured*.
- 10) ☐ **Hazardous Materials Endorsement:** All drivers making deliveries of products specified on this solicitation shall have Hazardous Materials Endorsements on their Commercial Drivers License, and such other Endorsements as may be required by relevant laws and/or regulations.
- 11) ☐ **Builders Risk Insurance:** Contractor shall maintain in force, at its own expense, Builder's Risk insurance on all risks of direct physical loss basis, excluding damage caused by an act of God, pursuant to California Public Contract Code §7105, for an amount equal to the full completed value of the covered structure or replacement value of alterations or additions. The policy shall include Omnitrans, Contractor and its subcontractors as loss payee as their interest may appear. Omnitrans shall not be responsible for the theft of any materials, equipment in the possession and control of Contractor.
- 12) ☐ **Installation Floater Insurance:** Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Agreement, a Builder's Risk Installation Floater for coverage of Contractor's labor, materials and equipment to be used for completion of the work performed under this Agreement. The minimum amount of coverage to be carried shall be equal to the full amount of the Contractor's labor, equipment, materials, or fixtures to be installed, in transit, or stored off-site or on-site during the performance of this Agreement. The policy shall include as loss payee, Omnitrans, the Contractor, and its sub-contractors as their interest may appear. Omnitrans shall not be responsible for the theft of any materials, equipment in the possession and control of Contractor.

## 17. INDEMNITY

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

## **18. REVISIONS IN SCOPE OF WORK**

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

## **19. RIGHTS IN TECHNICAL DATA**

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

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

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

## **21. OWNERSHIP RIGHTS**

- A. In the event OMNITRANS rightfully obtains copies of Proprietary Data under the terms of the separate License Agreement and Escrow Agreement that govern rights in Documentation, Software and Intellectual Property created and/or developed by Contractor, its Third Party Software Contractors and its Suppliers as part of the Project, any derivative works and associated documentation created by or on behalf of OMNITRANS by Permitted Programmers (as defined in the License Agreement) shall be the sole and exclusive property of OMNITRANS (collectively, "OMNITRANS Intellectual Property"), and OMNITRANS may use, disclose and exercise dominion and

full rights of ownership, in any manner in OMNITRANS Intellectual Property in connection with the use, operation and maintenance of a transportation system administered by OMNITRANS. No use of OMNITRANS Intellectual Property shall be made for any purpose other than in conjunction with a transportation system administered by CONTRACTOR, and OMNITRANS shall not sell, lease, rent, give away or otherwise disclose any OMNITRANS Intellectual Property to any outside third party other than Permitted Programmers. To the extent there may be any question of rights of ownership or use in any OMNITRANS Intellectual Property, Contractor shall require all of its subcontractors and suppliers (including without limitation its Third Party Software Contractors) to assign to OMNITRANS, all worldwide right, title and interest in and to all OMNITRANS Intellectual Property in a manner consistent with the foregoing terms of this paragraph. Contractor shall execute any documents as OMNITRANS may from time to time reasonably request to effectuate the terms of this paragraph.

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

## **22. WORK FOR HIRE**

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

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

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

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

## **24. EQUAL OPPORTUNITY**

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

## **25. STANDARD OF PERFORMANCE**

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

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

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

**27. DISQUALIFYING POLITICAL CONTRIBUTIONS**

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

**28. COMPLIANCE WITH LAW**

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

**29. COMPLIANCE WITH LOBBYING POLICIES**

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

**30. PUBLIC RECORDS ACT**

- A. All records, documents, drawings, plans, specifications and other material relating to conduct of OMNITRANS' business, including materials submitted by CONTRACTOR in its proposal and during the course of performing the Work under this Agreement, shall become the exclusive property of OMNITRANS and may be deemed public records. Said materials may be subject to the provisions of the California Public Records Act. OMNITRANS' use and disclosure of its records are governed by this Act.

- B. OMNITRANS will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act, including interpretations of the Act or the definitions of trade secret, confidential or proprietary. OMNITRANS will accept materials clearly and prominently labeled "TRADE SECRET" or "CONFIDENTIAL" or "PROPRIETARY" as determined by CONTRACTOR. OMNITRANS will endeavor to notify CONTRACTOR of any request of the disclosure of such materials. Under no circumstances, however, will OMNITRANS be liable or responsible for the disclosure of any labeled materials whether the disclosure is required by law or a court order or occurs through inadvertence, mistake or negligence on the part of OMNITRANS or its officers, employees and/or contractors.
- C. In the event of litigation concerning the disclosure of any material submitted by CONTRACTOR, OMNITRANS' sole involvement will be as a stake holder, retaining the material until otherwise ordered by a court. CONTRACTOR, at its sole expense and risk, shall be responsible for prosecuting or defending any action concerning the materials, and shall defend, indemnify and hold OMNITRANS harmless from all costs and expenses, including attorneys' fees, in connection with such action.

### **31. WAIVER/INVALIDITY**

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

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

### **32. FORCE MAJEURE**

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

### **33. CONFIDENTIALITY**

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

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

**34. CONTRACTOR'S INTERACTION WITH THE MEDIA AND THE PUBLIC**

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

**35. GOVERNING LAW**

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

**36. MODIFICATIONS TO AGREEMENT**

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

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

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

**38. PRECEDENCE**

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement, and any and all of its Amendments, Appendices, Exhibits and Attachments; (2) provisions of RFP-STS20-19 and any and all of its Addenda, Appendices, Exhibits and Attachments; and (3) CONTRACTOR's proposal dated April 8, 2020 and its Appendices, Exhibits, Attachments and Best & Final Offer dated April 17, 2020.

**39. ENTIRE AGREEMENT**

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



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

OMNITRANS

CLEAN ENERGY

\_\_\_\_\_  
Erin Rogers  
Interim CEO/General Manager

\_\_\_\_\_  
Robert M. Vreeland  
Chief Financial Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Federal Tax I.D. No. 95-4603747

DP \_\_\_\_\_

**ATTACHMENT A – SCOPE OF WORK**  
**STS20-19**  
**SUPPLY OF COMPRESSED NATURAL GAS (CNG)**

**1. INTRODUCTION**

- A. Contractor shall provide off-site fueling for Compressed natural gas (CNG) vehicles and fuel management services for Omnitrans Paratransit vehicles during all Omnitrans' hours and days of operations throughout Omnitrans' paratransit service area on an as-needed basis, no guaranteed usage. Services shall include providing fuel, the issuance of fuel cards to paratransit contractor's employees, and tracking and reporting of all fuel purchases.
- B. Omnitrans operates a fleet of fifty-nine (59) paratransit vehicles that are currently CNG powered and have twenty-eight (28) additional pending delivery. The nineteen (19) remaining gasoline powered paratransit vehicles will be replaced within the next five (5) years with CNG powered vehicles.

**2. BACKGROUND**

- A. Omnitrans' paratransit operations are conducted from the following location:
  - East Valley Paratransit Facility  
234 S. I Street, San Bernardino, CA 92411
  - West Valley Paratransit Facility  
9421 Feron Blvd., Suite 101, Rancho Cucamonga, CA 91730.

**3. HOURS AND DAYS OF OPERATION**

- A. Hours: Monday – Friday, 4:00 a.m. – 11:00 p.m., excluding the following holidays: New Years' Day; Memorial Day; Fourth of July; Labor Day; Thanksgiving Day; and Christmas Day.
- B. Hours: Saturday – Sunday, 5:00 a.m. – 10:00 p.m., excluding the following holidays: New Years' Day; Memorial Day; Fourth of July; Labor Day; Thanksgiving Day; and Christmas Day.

**4. SERVICE AREAS**

- A. The Service Area covers the southwestern portion of San Bernardino County, to include the following cities:
  - 1) Bloomington
  - 2) Colton
  - 3) Fontana
  - 4) Grand Terrace
  - 5) Highland;
  - 6) Loma Linda
  - 7) Mentone
  - 8) Redlands
  - 9) Rialto
  - 10) San Bernardino
  - 11) Yucaipa
  - 12) Chino;

- 13) Chino Hills
- 14) Montclair
- 15) Ontario
- 16) Rancho Cucamonga
- 17) Upland

B. Omnitrans reserves the right to make changes to the service areas.

## 5. VEHICLES

The quantities of vehicles currently in use are fifty-nine (59) Type II revenue vehicles. The remaining gasoline powered fleet is converting to CNG-powered vehicles over the next five (5) years. These vehicles are fueled at an Omnitrans fixed route facilities between 06:00 and 15:30. Off-site CNG fueling is necessary to supplement these hours for the routes which complete service in the evening.

## 6. ESTIMATED CNG QUANTITIES

### A. Compressed Natural Gas

Omnitrans estimates a maximum need for the following gasoline gallon equivalent (GGE) of CNG:

- |    |                               |         |
|----|-------------------------------|---------|
| 1) | July 2020 – June 2021 (FY21): | 100,000 |
| 2) | July 2021 – June 2022 (FY22): | 100,000 |
| 3) | July 2022 – June 2023 (FY23): | 100,000 |
| 4) | July 2023 – June 2024 (FY24): | 100,000 |
| 5) | July 2024 – June 2025 (FY25): | 100,000 |

### B. Usage

- 1) The increase of estimated CNG usage is related to the estimated conversion schedule of Omnitrans' fleet from gasoline to CNG-fueled vehicles.
- 2) The total number of Omnitrans Paratransit CNG vehicles will be approximately 106 at the completion of the gasoline bus replacement project.
- 3) It is mutually understood that Omnitrans is under no obligation to:
  - a) Purchase a minimum quantity of product and the annual quantities are best estimates only.
  - b) Pay for any product other than CNG.

## 7. CONTRACTOR RESPONSIBILITIES

### A. Fuel

- 1) Contractor shall provide fuel and fuel management services for CNG to Omnitrans Paratransit vehicles during all Omnitrans' hours and days of operations throughout Omnitrans' paratransit service area as stated in Section 3, Hours and Days of Operations.
- 2) Contractor shall provide one fuel fleet card for each enrolled vehicle and twelve spare fuel fleet cards. Cards shall be sent to Omnitrans inactive and shall require Omnitrans to call and activate cards prior to use.
- 3) Contractor shall assign unique Personal Identification Numbers (PIN) to each fuel card. The list of PIN numbers and the cards shall be mailed in separate envelopes to Omnitrans' Purchased Transportation Administrator.
- 4) Contractor shall provide spare fuel fleet cards at no charge to replace lost/stolen/non-working fleet cards as required by Omnitrans.
- 5) Fuel pumps shall be equipped with card readers at the pump islands to streamline the fueling process.
- 6) Fuel shall be dispensed/authorized when the driver/employee swipes the fuel fleet card and enters the unique PIN and vehicle odometer reading.
- 7) Fuel fleet cards shall be accepted for CNG only. No other products or services shall be purchased or authorized using the fuel fleet card.
- 8) Each fuel fleet card shall be limited to 50 GGE/day, unless changed by Omnitrans.
- 9) Omnitrans shall not be responsible for unauthorized purchases of other products or services, on reported lost, stolen, or canceled cards, or on purchases made outside the Omnitrans service area.
- 10) Contractor shall provide four (4) additional fuel cards which do not have a daily limit.

### B. Customer Service/Help Desk

Contractor shall provide toll-free telephone access and telephone customer service support, at a minimum, during all Omnitrans' hours and days of operations as stated in Section 3, Hours and Days of Operations, to authorize additional drivers/employees, report lost or stolen cards, cancel cards, or make other account changes.

### C. Management Reporting and Billing

- 1) Contractor shall provide toll-free telephone access and telephone customer service support, at a minimum, during all Omnitrans' hours and days of operations as stated in Section 3, Hours and Days of Operations, to authorize additional drivers/employees, report lost or stolen cards, cancel cards, or make other account changes.

- 2) Contractor shall provide on-line Internet account access to Omnitrans to review account activity and download management reports in Microsoft Excel (xls) format.
- 3) Contractor shall provide Omnitrans a monthly statement that includes the following:
  - a) The account number and other relevant account information.
  - b) All purchase transactions conducted by Omnitrans during the billing cycle at facilities located within the Omnitrans service area, including for each purchase the date, time and location of purchase, driver and vehicle identification, product type, price per GGE, number of GGE purchased, Federal Excise Tax, State Excise Tax, State Sales Tax, total fuel purchase in dollars, vehicle odometer readings, miles and miles per gallon. Omnitrans has an Exempt Bus Operator Use Fuel Tax License.
  - c) Monthly Billing Cycle shall extend from the first calendar day of one month to the last day of the month.
  - d) IRS Tax refund: Contractor shall provide Ominitrans with a written detail describing how they plan to incorporate IRS CNG automotive fuel tax refund and Volumetric Excise Tax Credit (VETC) to Omnitrans. This item shall be considered part of the Omnitrans purchase terms and conditions.

\*End of Scope of Work\*

**ATTACHMENT B - PRICING FORM**  
**STS20-19**  
**SUPPLY OF COMPRESSED NATURAL GAS (CNG)**

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1.	Compressed Natural Gas (CNG)	Pump price minus \$.30 per gasoline gallon equivalent.	Pricing Effective - July 1, 2020 to June 30, 2023
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Number of stations inside Omnitrans' service area 3 (Please attach list).  
Average number of CNG dispensers at above locations 3.  
Minimum number of CNG dispensers at above locations 3. List those locations (Attach list if necessary)

14230 Valley Blvd., Fontana, CA 92335 – three (3) dispensers  
3550 John Bangs Drive, Ontario, CA 91761 – three (3) dispensers  
1670 East 1<sup>st</sup> St, Pomona, CA 91766 – two (2) dispensers

These locations are approximately within three (3) miles of Omnitrans facilities.



## PERSONNEL POLICY MANUAL

POLICY 707 PAGE 1 OF 6

SUBJECT  
**PROHIBITING WEAPONS IN THE WORKPLACE**

APPROVED BY OMNITRANS  
BOARD OF DIRECTORS

DATE: June 7, 2017

### **I. Purpose**

It is the policy of Omnitrans to maintain a work environment that is safe for all persons, including the community, and conducive to attaining high work standards. To achieve these objectives, the Agency prohibits the possession of firearms and weapons in the work place, regardless of any license or permit that an individual may have which otherwise authorizes the individual to carry firearms or weapons.

It is illegal and a criminal violation to possess weapons in public buildings (California Penal Code 171b and 171.7).

### **II. Scope**

This policy applies to all Omnitrans employees, including but not limited to staffing agency workers and contractors working for or with the Agency at any time, regardless of whether the Agency is the actual employer.

Possession of firearms and weapons is prohibited at all Omnitrans' offices, parking lots, agency vehicles and job sites, and in all Agency vehicles.

The following person/s are exempt from this policy as stated: a guard of a contract carrier operating an armored vehicle, and any law enforcement officer who is carrying out official duties engaged in protecting and preserving property or life within the scope of his or her employment.

Omnitrans will strictly enforce this policy. Violation of this policy will result in immediate disciplinary action, up to and including termination.

### **III. Procedure**

#### **A. COMMUNICATION OF POLICY**

(a) Each employee of the Agency shall receive a copy of this policy at the time of his/her hire and shall sign a copy of the acknowledgment. Employees who were employed before the effective date of this policy shall also receive a copy of this policy and shall sign a copy of the acknowledgment. A copy of the signed acknowledgment and of all new and revised policies throughout the employee's employment shall be maintained in each employee's personnel file.

(b) A copy of this policy shall be attached to each contractor's contract, and shall become a part of its contract. The contractor shall be responsible for communicating this policy to its employees and any subcontractors to which the contractor sublets any portion of its contract.



## PERSONNEL POLICY MANUAL

POLICY 707 PAGE 2 OF 6

SUBJECT  
**PROHIBITING WEAPONS IN THE WORKPLACE**

APPROVED BY OMNITRANS  
BOARD OF DIRECTORS

DATE: June 7, 2017

### B. PROHIBITED CONDUCT

(a) The transportation of firearms or weapons in Agency vehicles is prohibited. This includes but is not limited to:

- (1) to and from work,
- (2) when conducting Agency business,
- (3) at all times in Agency-owned or leased vehicles.

(b) The possession or carrying of permitted and non-permitted firearms or weapons while at Agency buildings, parking lots, sponsored events, and job sites.

(c) Exception: Power actuated tools which are manufactured for the use of fastening building materials and sanctioned tools for the purpose of performing Agency job duties are not subject to this policy.

### C. SEARCH

(a) Omnitrans reserves the right to conduct reasonable, unannounced searches of Agency premises and personal searches of employees and others while entering, on, or leaving Agency premises, including, but not limited to, personal effects, vehicles, lockers, desks, tool boxes, clothing, meal containers, and baggage. Searches will be conducted when the Agency has a reasonable suspicion to believe that a particular employee may be in possession of a weapon or firearm.

(b) "Reasonable suspicion" is defined as a suspicion that is based on specific personal observations such as an employee's manner, disposition, behavior, speech, information provided to management by an employee, by law enforcement officials, by a security service, or by other persons believed to be reliable, or a suspicion that is based on other surrounding circumstances.

(c) Individuals refusing to allow an inspection will not be detained or forced to submit to the inspection. Refusal violates Agency policy and constitutes an act of insubordination constituting disciplinary action, up to and including separation of the employment relationship. Non-employees who refuse to allow an inspection will not be permitted on Agency premises and will be required to immediately leave the premises. Employees will be relieved of all duties while pending investigation.

### D. DISCIPLINE

(a) Violations of any portion of this policy will subject the employee to discipline,





## PERSONNEL POLICY MANUAL

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### SUBJECT

### PROHIBITING WEAPONS IN THE WORKPLACE

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up to and including separation of employment.

(b) Violations by a contractor's employee or subcontractor of any portion of this policy may constitute a breach of contract and regardless will mandate the immediate removal of the contractor's employee from Agency premises, prohibition against the individual accessing Agency premises in the future, and may also constitute a breach of contract.

## E. REPORT OF VIOLATIONS

### 1. Employee Violations

Employees are required to report violations of this policy without regard to the relationship between the individual who initiates the prohibited behavior and the individual reporting it. An employee who believes that another employee may be in violation of this policy must report the alleged violation to the employee's manager or supervisor, the department director, security, or the appropriate departmental Human Resources representative.

Departments are responsible for implementing this policy. The Agency will promptly investigate allegations of violations of this policy.

OmniTrans reserves the right to authorize searches for prohibited weapons on its property when a violation is reported or when probable cause or reasonable suspicion is present consistent with law.

Employees should be aware that there is no reasonable expectation of privacy with respect to weapons in the workplace. The Agency's right to conduct searches includes, but is not limited to, such areas and items as lockers, desks, workstations, offices, purses, briefcases, bags, toolboxes, and lunch bags.

Searches of the employee's work area and belongings, as described above, may be conducted by the Security & Emergency Preparedness Coordinator, or designee. Searches of all types, including surrounding agency property, personal property and the employee may be conducted by law enforcement in accordance with law should reasonable suspicion be present. Any weapon found in violation of this policy may be confiscated. Refusal to permit a search may result in discipline, up to and including separation.

### 2. Visitor Violations

Visitors are not allowed to carry a weapon on the premises. Any visitor carrying a weapon into a posted no-carry agency facility is creating an elevated risk to security and safety that warrants a response leading to compliance with the law. If the visitor



## PERSONNEL POLICY MANUAL

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### SUBJECT

### PROHIBITING WEAPONS IN THE WORKPLACE

APPROVED BY OMNITRANS  
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poses an immediate risk to security or safety, law enforcement shall be notified immediately by calling 9-911. The visitor shall be considered an immediate risk to safety and security if he/she is acting in an aggressive, belligerent, confrontational, suspicious or in an otherwise questionable manner while carrying a weapon.

#### F. FALSE REPORTS

Employees making intentionally false and malicious complaints of weapons in the workplace will be subject to disciplinary action, up to and including separation and/or will be reported to the proper authorities as appropriate.

#### G. ROLES AND RESPONSIBILITIES

Employees are responsible for understanding and complying with the Policy Prohibiting Weapons in the Workplace.

Whenever there is a question as to whether an instrument, article or substance is considered a weapon in violation of this policy, it is the employee's responsibility to seek clarification. Employees seeking clarification should direct their questions to the agency's Security & Emergency Preparedness Coordinator at 909-379-7117 prior to bringing the item(s) to Omnitrans work sites and events, as well as agency-owned or leased facilities or vehicles.

#### H. SAFETY FIRST

In applying this policy, no employee shall take any action that will risk his or her own safety or the safety of other individuals. No attempt should ever be made by an employee to restrain or forcibly evict an armed person from agency premises.

An individual's continued non-compliance after being properly informed of the law (California Penal Code 171 (b)) will result in notification to law enforcement and discipline, up to and including separation of employment. Employees should notify security immediately.

An employee who feels an imminent danger to his or her own safety or the safety or security of others, should avoid any interaction with the individual. Immediately contact law enforcement by calling 9-911 and security at 909-379-7117.

#### I. ANTI-RETALIATION PROVISION

Omnitrans strictly prohibits any retaliation against an employee who has reported a possible breach of policy. If an employee feels that he or she has been subjected to retaliation in violation of this policy, the employee must immediately report it to his or her supervisor or other designated Human Resources representative.



## PERSONNEL POLICY MANUAL

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SUBJECT  
**PROHIBITING WEAPONS IN THE WORKPLACE**

APPROVED BY OMNITRANS  
BOARD OF DIRECTORS

DATE: June 7, 2017

### J. DEFINITIONS

1. **Firearm or weapon includes, but is not limited to:** A weapon, a pistol or rifle, whether loaded or unloaded, capable of firing a projectile and using an explosive as a propellant.
  - A firearm, whether loaded or unloaded, from which a shot may be discharged including but not limited to handguns, pistols, revolvers, shotguns, rifles, and bb guns;
  - A gun that can discharge a shot or a projectile by means of an explosive or gas, or compressed air;
  - A device designed to be used as a weapon, from which can be expelled a projectile by the force of any explosion or force of combustion;
  - Any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive;
  - Any destructive device;
  - Any device designed as a weapon and capable of producing great bodily harm, including but not limited to, stun guns, stun batons;
  - An electric weapon such as a taser gun;
  - Any combustible or flammable liquid, or other substance, device, or instrumentality that, in a manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm, or any fire that is used to produce death or great bodily harm;
  - Any knife that is carried with intention or calculation to produce death or great bodily harm having a blade length in excess of four (4) inches, the blade of which is fixed or is capable of being fixed in an unguarded position by the use of one or two hands. Switchblades are specifically prohibited. (Knives intended to be used as eating utensils, and stored or maintained in office kitchens or lunchrooms do not represent a violation of this policy.)
2. **Office:** All permanent facilities, all mobile facilities, all leased facilities, and any facility designated as an office by the agency.
3. **Parking lot:** All lots at permanent facility, park and rides, lots at project sites, any lot that the agency designates as a parking lot that is not at a permanent facility or project site.
4. **Agency vehicle:** All agency-owned buses/vehicles, all agency-leased buses/vehicles, all agency-rental buses/vehicles, and all personal vehicles for which the owner receives a vehicle allowance, all personal vehicles where the owner receives reimbursement for mileage.



## PERSONNEL POLICY MANUAL

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5. **Search:** To examine in order to find something concealed.

6. **Job sites:** Any and all locations where the agency conducts business.

### SIGNS

1. At each entrance to buildings, parking lots, and project sites, a sign shall be posted in a location that is conspicuous to all who could enter a building, parking lot, or project site.
2. Signs shall have wording or pictogram that prohibits firearms, weapons and give notice of video surveillance. Signs shall be vandalism resistant and of the quality that they will not fade due to the elements.



## CONTRACT AGREEMENT

between

CONSULTANT )

Blais & Associates, Inc. )

4017 Moonlight Drive )

Little Elm, TX 75068 )

(hereinafter "CONSULTANT") )

Contact: Dawn Olsgaard )

Telephone: (949) 589-6338 )

Email: dolsgaard@blaisassoc.com )

Remit Address )

same )

And )

**CONTRACT DOCUMENTS**

**CONTRACT NO. SDD20-71**

**GRANT SERVICES**

Contract Amount:

Not to Exceed: \$131,400

OmniTrans )

1700 West Fifth Street )

San Bernardino, CA 92411 )

(hereinafter "OMNITRANS") )

OmniTrans Project Manager:

Name: Anna Jaiswal

Title: Development Planning Mgr.

Telephone: (909) 379-7256

Email:

[anna.jaiswal@omnitrans.org](mailto:anna.jaiswal@omnitrans.org)

Contract Administrator:

Name: Christine Van Matre

Title: Contract Administrator

Telephone: (909) 379-7122

Email:

[christine.vanmatre@omnitrans.org](mailto:christine.vanmatre@omnitrans.org)



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ATTACHMENT A – SCOPE OF WORK

ATTACHMENT B – POLICY 707 PROHIBITING WEAPONS IN THE WORKPLACE

ATTACHMENT C – PRICING SCHEDULE

This Agreement is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2020 by and between Omnitrans (hereinafter referred to as "OMNITRANS") and Blais & Associates, Inc. (hereinafter referred to as "CONSULTANT").

## **RECITALS**

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

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

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

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

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

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

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



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

### **3. CONTRACT OPTIONS**

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

### **4. COMPENSATION**

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

OMNITRANS' maximum cumulative payment obligation under this Agreement shall not exceed One Hundred Thirty-One Thousand Four Hundred Dollars (\$131,400), including all amounts payable to CONSULTANT for all costs, including but not limited to direct labor, other direct costs, subcontracts, indirect costs including, but not limited to, leases, materials, taxes, insurance, and profit.

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

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

CONSULTANT shall submit invoices in duplicate to:

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

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

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

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

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

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

- C. Prompt Payment Clause

Omnitrans has, by a contract clause pursuant to 49 CFR 26.29; "Prompt Payment Mechanisms for Recipients", adopted a prompt payment provision on all DOT-assisted contracts, to facilitate timely payment to all subconsultants. This provision, governing the payment to subconsultants (DBEs and non-DBEs), requires the Prime Consultant to issue payment to all subconsultants for satisfactory work performed, no later than seven (7) days from Consultant's receipt of payment from Omnitrans. A provision will also apply to the disbursement of retention proceeds withheld by Prime Consultant, requiring the prompt return of retention payments from Consultant to the subconsultant no later than seven (7) days Omnitrans after the subconsultant's work is satisfactorily completed. Prime Consultant will incorporate these prompt payment provisions in all subcontract agreements issued by Prime Consultant with respect to this Contract.

In accordance with §26.29 “Prompt Payment Provisions”, Omnitrans at its discretion, utilizes the following method to comply with the prompt payment of retainage requirement:

Hold retainage from the Prime Consultant and require a contract clause obligating Prime Consultant to make prompt and full payment of any retainage kept by Prime Consultant to the subconsultant within 7 days after the subconsultant’s work is satisfactorily completed.

Failure to comply with these prompt payment provisions or delay in issuing payment without prior written approval from Omnitrans will constitute noncompliance, which will result in the application of appropriate administrative sanctions, including, but not limited to, a penalty of 1% of the amount due per month to the affected subconsultant for every month that payment is not made.

Consultant will not be reimbursed for work performed by subconsultants unless and until the consultant ensures that the subconsultants are promptly paid for the work performed. Consultant shall include a prompt payment clause that complies with local, state, and federal prompt payment requirements in all subcontracts entered into under this contract. Should consultant fail to meet subconsultant prompt payment requirements for two (2) consecutive subconsultant payments without good cause, OMNITRANS may impose appropriate penalties for failure to comply with prompt payment requirements.

## **6. AUDIT AND INSPECTION OF RECORDS**

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

## **7. NOTIFICATION**

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

To OMNITRANS:

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

To CONSULTANT:

Blais & Associates, Inc.  
4017 Moonlight Drive  
Little Elm, TX 75068  
Attn: Neil Blais  
Title: President and CEO  
(469) 579-5905 / (949) 589-6338  
[nblais@blaisassoc.com](mailto:nblais@blaisassoc.com)

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

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

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

Project Manager: Anna Jaiswal, Development Planning Manager

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

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

**B. Consultant's Key Personnel**

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

<u>Name</u>	<u>Role</u>
Dawn Olsgaard, Director dolsgaard@blaisassoc.com	Grant Writing / Project Manager
Sharon Campbell, Research Associate scampbell@blaisassoc.com	Grant Research
Ursula Drake, Director udrake@blaisassoc.com	Grant Management

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

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

**9. DISPUTE RESOLUTION**

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

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

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

## **10. TERMINATION FOR CONVENIENCE**

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

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

- A. If CONSULTANT fails to perform any of the provisions of this Agreement or so fails to make progress as to endanger timely performance of this Agreement, OMNITRANS may give CONSULTANT written notice of such default. If CONSULTANT does not cure such default or provide a plan to cure such default which is acceptable to OMNITRANS within the time permitted by OMNITRANS, then OMNITRANS may terminate this Agreement due to CONSULTANT's breach of this Agreement.
- B. If a federal or state proceeding for relief of debtors is undertaken by or against CONSULTANT, or if CONSULTANT makes an assignment for the benefit of creditors, then OMNITRANS may immediately terminate this Agreement.
- C. If CONSULTANT violates Section 29, Compliance with Lobbying Policies, of this Agreement, then OMNITRANS may immediately terminate this Agreement.
- D. In the event OMNITRANS terminates this Agreement as provided in this Section, OMNITRANS may procure, upon such terms and in such manner as OMNITRANS may deem appropriate, work similar in scope and level of effort to those so terminated, and CONSULTANT shall be liable to OMNITRANS for all of its costs and damages, including, but not limited, any excess costs for such Work.

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

## **12. ASSIGNMENT**

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

## **13. SUBCONTRACTING**

- A. OMNITRANS hereby consents to CONSULTANT's subcontracting of portions of the Work to the parties identified below for the functions described in CONSULTANT's proposal. CONSULTANT shall include in each subcontract agreement the stipulation that CONSULTANT, not OMNITRANS, is solely responsible for payment to the subconsultant for all amounts owing and that the subconsultant shall have no claim, and shall take no action against OMNITRANS, Member Agencies or officers, directors, employees or sureties thereof for nonpayment by CONSULTANT.
- B. CONSULTANT shall not, without the express written consent of Omnitrans, either:
  - a. Substitute any person, firm, or corporation as subconsultant in place of the subconsultants identified below; or
  - b. Permit any subcontract to be assigned or transferred; or
  - c. Allow work to be performed by anyone other than the original subconsultant listed below.

<b>Subconsultant's Name and Address</b>	<b>License #</b>	<b>Work to Be Performed</b>
---	------------------	-----------------------------

N/A

- C. CONSULTANT shall report subconsultant awards and payments via a Web-based system on a monthly basis unless Omnitrans approves in writing the use of a Subconsultants Paid Report and Payment Verification form.

#### **14. INDEPENDENT CONSULTANT**

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

#### **15. INSURANCE**

##### **A. INSURANCE REQUIREMENTS**

##### **1) General Requirements for Consultant**

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

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

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

##### **3) Other Insurance Provisions**

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

Commercial General Liability insurance coverage, including but not limited to, premises liability, contractual liability, products and



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

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

**b. Workers' Compensation**

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

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

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

**4) Acceptability of Insurers**

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

**5) Verification of Coverage**

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

**6) Subconsultants**

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

**7) Notification of Terminated Insurance**

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

**B. MINIMUM INSURANCE COVERAGE**

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

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

- 4) ☒ **Professional Liability:** \$1,000,000; per occurrence and aggregate.
- 5) ☒ **Workers' Compensation:** statutory limits or,
- 6) ☐ **Self Insurance Program:** a State Approved program in an amount and form that meets all applicable requirements of the Labor Code of the State of California.
- 7) ☒ **Employer's Liability:** \$1,000,000; per occurrence.
- 8) ☐ **Environmental Liability:** \$1,000,000; per occurrence and aggregate; *Omnitrans named and endorsed as an Additional Insured.*
- 9) ☐ **Umbrella Policy:** \$4,000,000; per occurrence and aggregate Additional coverage for the above policies, *Omnitrans Additional Insured.*
- 10) ☐ **Hazardous Materials Endorsement:** All drivers making deliveries of products specified on this solicitation shall have Hazardous Materials Endorsements on their Commercial Drivers License, and such other Endorsements as may be required by relevant laws and/or regulations.
- 11) ☐ **Builders Risk Insurance:** Consultant shall maintain in force, at its own expense, Builder's Risk insurance on all risks of direct physical loss basis, excluding damage caused by an act of God, pursuant to California Public Contract Code §7105, for an amount equal to the full completed value of the covered structure or replacement value of alterations or additions. The policy shall include Omnitrans, Consultant and its subconsultants as loss payee as their interest may appear. Omnitrans shall not be responsible for the theft of any materials, equipment in the possession and control of Consultant.
- 12) ☐ **Installation Floater Insurance:** Consultant shall obtain, at Consultant's expense, and keep in effect during the term of this Agreement, a Builder's Risk Installation Floater for coverage of Consultant's labor, materials and equipment to be used for completion of the work performed under this Agreement. The minimum amount of coverage to be carried shall be equal to the full amount of the Consultant's labor, equipment, materials, or fixtures to be installed, in transit, or stored off-site or on-site during the performance of this Agreement. The policy shall include as loss payee, Omnitrans, the Consultant, and its sub-consultants as their interest may appear. Omnitrans shall not be responsible for the theft of any materials, equipment in the possession and control of Consultant.

## **16. INDEMNITY**

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

## **17. REVISIONS IN SCOPE OF WORK**

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

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

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

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

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

## **20. OWNERSHIP RIGHTS**

In the event OMNITRANS rightfully obtains copies of Proprietary Data under the terms of the separate License Agreement and Escrow Agreement that govern rights in Documentation, Software and Intellectual Property created and/or developed by Consultant, its Third Party Software Consultants and its Suppliers as part of the Project, any derivative works and associated documentation created by or on behalf of OMNITRANS by Permitted Programmers (as defined in the License Agreement) shall be the sole and exclusive property of OMNITRANS (collectively, "OMNITRANS Intellectual Property"), and OMNITRANS may use, disclose and exercise dominion and full rights of ownership, in any manner in OMNITRANS Intellectual Property in connection with the use, operation and maintenance of a transportation system administered by OMNITRANS. No use of OMNITRANS Intellectual Property shall be made for any purpose other than in conjunction with a transportation system administered by CONSULTANT, and OMNITRANS shall not sell, lease, rent, give away or otherwise disclose any OMNITRANS Intellectual Property to any outside third party other than Permitted Programmers. To the extent there may be any question of rights of ownership or use in any OMNITRANS Intellectual Property, Consultant shall require all of its subconsultants and suppliers (including without limitation its Third Party Software Consultants) to assign to OMNITRANS, all worldwide right, title and interest in and to all OMNITRANS Intellectual Property in a manner consistent with the foregoing terms of this paragraph. Consultant shall execute any documents as OMNITRANS may from time to time reasonably request to effectuate the terms of this paragraph.

## **21. WORK FOR HIRE**

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

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

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

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

## **23. EQUAL OPPORTUNITY**

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

## **24. STANDARD OF PERFORMANCE**

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

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

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

## **26. DISQUALIFYING POLITICAL CONTRIBUTIONS**

In the event of a proposed amendment to this Agreement, CONSULTANT shall provide prior to the execution of such amendment, a written statement disclosing any contribution(s) of \$250 or more made by CONSULTANT or its subconsultant(s) to Omnitrans Board Members/Alternates or employees within the preceding twelve (12) months of the date of the proposed amendment. Applicable contributions include those made by any agent/person/entity on behalf of CONSULTANT or subconsultant(s).

## **27. COMPLIANCE WITH LAW**

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

## **28. DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM**

N/A

## **29. COMPLIANCE WITH LOBBYING POLICIES**

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

## **30. PUBLIC RECORDS ACT**

- A. All records, documents, drawings, plans, specifications and other material relating to conduct of OMNITRANS' business, including materials submitted

by CONSULTANT in its proposal and during the course of performing the Work under this Agreement, shall become the exclusive property of OMNITRANS and may be deemed public records. Said materials may be subject to the provisions of the California Public Records Act. OMNITRANS' use and disclosure of its records are governed by this Act.

- B. OMNITRANS will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act, including interpretations of the Act or the definitions of trade secret, confidential or proprietary. OMNITRANS will accept materials clearly and prominently labeled "TRADE SECRET" or "CONFIDENTIAL" or "PROPRIETARY" as determined by CONSULTANT. OMNITRANS will endeavor to notify CONSULTANT of any request of the disclosure of such materials. Under no circumstances, however, will OMNITRANS be liable or responsible for the disclosure of any labeled materials whether the disclosure is required by law or a court order or occurs through inadvertence, mistake or negligence on the part of OMNITRANS or its officers, employees and/or consultants.
- C. In the event of litigation concerning the disclosure of any material submitted by CONSULTANT, OMNITRANS' sole involvement will be as a stake holder, retaining the material until otherwise ordered by a court. CONSULTANT, at its sole expense and risk, shall be responsible for prosecuting or defending any action concerning the materials, and shall defend, indemnify and hold OMNITRANS harmless from all costs and expenses, including attorneys' fees, in connection with such action.

### **31. WAIVER/INVALIDITY**

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

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

### **32. FORCE MAJEURE**

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

### **33. CONFIDENTIALITY**

CONSULTANT agrees that for and during the entire term of this Agreement, any information, data, figures, records, findings and the like received or generated by



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

#### **34. CONSULTANT'S INTERACTION WITH THE MEDIA AND THE PUBLIC**

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

#### **35. GOVERNING LAW**

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

#### **36. MODIFICATIONS TO AGREEMENT**

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

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

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

### **37. PRECEDENCE**

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement, and any and all of its Amendments, Appendices, Exhibits and Attachments; (2) provisions of RFP-SDD20-71 and any and all of its Addenda, Appendices, Exhibits and Attachments; and (3) CONSULTANT's proposal dated March 18, 2020, its Appendices, Exhibits, Attachments and Best & Final Offer dated April 6, 2020.

### **37. ENTIRE AGREEMENT**

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

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

OMNITRANS

BLAIS & ASSOCIATES, INC.

\_\_\_\_\_  
Erin Rogers  
Interim CEO/General Manager

\_\_\_\_\_  
Neil Blais  
President and CEO

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Federal Tax I.D. No. 43-3083595

DP \_\_\_\_\_

**ATTACHMENT A – SCOPE OF WORK**  
**RFP-SDD20-71**  
**GRANT SERVICES**

**I. PURPOSE**

- A. Consultant shall provide Grant Services, including grant research, grant planning, and grant application writing.
- B. The services to be performed by the consultant under this specification consist of furnishing all materials and qualified workforce necessary to provide the services described within this scope of work.

**II. BACKGROUND**

- A. Omnitrans is the public transit provider for the San Bernardino Valley area in the County of San Bernardino, California, which includes 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 unincorporated portions of the County of San Bernardino. Established in 1976 through a joint powers agreement, Omnitrans provides approximately 11 million passenger trips per year on its 34 fixed bus routes.
- B. Omnitrans seeks to obtain additional funding through available grant sources for upcoming projects such as: zero-emission buses and related infrastructure; “I” Street paratransit facility rehabilitation; West Valley paratransit facility; rooftop solar and battery storage project; passenger amenities at bus stops and stations; or similar projects.
- C. Consultant shall help Omnitrans to research and identify possible funding sources for operations or capital projects, plan ahead how to take maximum advantage of funding sources available, and write winning applications for grant funding.

**III. SUMMARY OF WORK**

- A. **Location of work** – Consultant may work remotely but must be available for in-person meetings at Omnitrans’ facilities or other designated locations with Omnitrans’ Project Manager, other Omnitrans staff, or other stakeholders, as necessary to perform the work contained in this Scope of Services and at the request of Omnitrans’ Project Manager.
- B. **Duration of work** – Three years.
- C. **Response Times** – Because grant application deadlines sometimes create urgency, Consultant is expected to have a designated staff person at any given time during business hours Monday through Friday who will be available to respond to Omnitrans’ inquiries within one (1) business day via telephone or email.
- D. **Schedule** – Consultant shall submit a workplan and schedule of services to be performed under the Consultant to Omnitrans’ Project Manager upon award of contract. The workplan and schedule must be reviewed and approved by Omnitrans

prior to starting work. The workplan and schedule shall be updated and resubmitted to Omnitrans' Project Manager if changes become necessary. An update on work progress shall be submitted to Omnitrans' Project Manager at least once a month along with the submittal of the monthly invoice.

- E. **Communication** – Consultant shall keep Omnitrans' Project Manager informed of project progress and any substantial issues that arise in completion of the scope of services, through project status update conference calls as needed.

#### **IV. TASKS**

Consultant shall be responsible for completing the following tasks:

##### **A. Funding Needs Assessment**

- i. Work with Omnitrans staff to identify and compile into a table the agency's short-term and long-term needs for operational and capital funding, including a list of potential projects for which funding will be needed in the next 36 months, complete with approximate costs, phases, and expected timelines (based on information provided by Omnitrans staff).
- ii. Consultant shall facilitate one to two (1-2) meetings as needed with Omnitrans staff and solicit staff's input in order to develop the Funding Needs Assessment. Consultant shall provide agendas to all attendees at least one business day prior to each meeting, and Consultant shall give Omnitrans' Project Manager at least one business day to provide input into the agenda before Consultant finalizes agenda and provides it to all meeting attendees. Consultant shall compile and provide notes summarizing each meeting to all attendees within five (5) business days of each meeting, and then revise notes upon receiving feedback from Omnitrans' Project Manager or other staff.
- iii. Consultant shall revise the Funding Needs Assessment as requested by Omnitrans' Project Manager.

##### **B. Grant Funding Research**

- i. Consultant shall conduct research to identify potential funding sources that would be a good fit for Omnitrans' candidate projects, including, but not limited to, Federal, State, regional, local, foundation, and private funding sources that support Omnitrans' funding needs and priorities. Funding sources can include but not be limited to grants, loans, vouchers, waivers, rebates, financing programs, or donations.
- ii. Consultant shall compile research into a table for Omnitrans' review, including timelines/due dates, eligibility, grant purpose, local match requirements, and other requirements of each funding source. Table shall

be a living document to be continuously updated by Consultant throughout one-year contract term.

- iii. Funding sources should include but not be limited to the following purposes:
  - 1. Zero-emission buses and/or supporting infrastructure.
  - 2. Renewable energy and energy efficiency projects.
  - 3. Public transit passenger amenities.
  - 4. Public transit technology.
  - 5. Bus operations and maintenance facility planning, design, construction, and rehabilitation.
  - 6. Other projects developed during the needs assessment.
- iv. Consultant shall assist Omnitrans with evaluating whether a funding source is a good fit for a candidate project and evaluate the likelihood of receiving the funding, in order to assist Omnitrans' decision of whether to pursue that funding source.

#### **C. Funding Application Development**

- i. It is estimated that Omnitrans will need assistance with submitting two (2) grant applications per year, for a total of six (6) grant applications during the term of this Scope of Services. More than 6 applications may be able to be submitted if fewer hours of work are needed for each application.
- ii. Consultant shall develop funding applications with the input of Omnitrans staff, including the following:
  - 1. Application narrative such as project purpose and need, justification of how the project meets goals and objectives of the funding source, Omnitrans' eligibility for the funding source, and Omnitrans' approach for implementing the project and meeting the requirements of the funding source.
  - 2. Cost estimate of project.
  - 3. Benefits of project.
  - 4. Timeline for completing project.
  - 5. Letters of support.
  - 6. Any other documentation required for funding source.

- iii. Upon start of work on the funding application, Consultant shall provide Omnitrans with a summary of requirements for funding, along with a timeline and checklist of what information is needed from which source by what date in order to complete the grant application satisfactorily by the deadline.
- iv. Omnitrans will provide all inputs/data needed to support the application. Consultant shall compile the information into a presentable format to make a winning application and shall provide Omnitrans with suggestions on what other data or information needs to be collected to support the application. Consultant shall also provide Omnitrans with drafts of letters or resolutions that need to be executed by Omnitrans for submission with funding applications.
- v. Consultant shall provide Omnitrans at least three to five (3-5) business days to review and provide comments on materials before submission.
- vi. Consultant shall submit final application materials and provide an electronic copy of complete submission package to Omnitrans. Omnitrans may also elect to submit application packages directly to the funding source.
- vii. Omnitrans also expects Consultant to provide Omnitrans staff with creative suggestions for questions and requests to make of funding agencies / funding sources, when funding source guidelines leave room for interpretation of how funding can be used.

## **V. DELIVERABLES**

- A. Schedule and workplan, to be revised as needed.
- B. Weekly status update calls as needed while working on specific grants.
- C. Monthly progress reports and invoices.
- D. Meeting agenda and notes.
- E. Table summarizing Omnitrans' funding needs (living document to be revised as needed).
- F. Table summarizing funding opportunities (living document to be revised as needed).
- G. Summary of each funding opportunity to be applied for, including requirements of funding, and checklist and timeline of information needed.
- H. Six (6) funding applications, with electronic copy of full package submitted.

**VI. QUALITY OF WORKMANSHIP**

All work shall be performed in accordance with the industry standard, and to the complete satisfaction of Omnitrans.

\* End Scope of Work \*





## PERSONNEL POLICY MANUAL

POLICY 707 PAGE 1 OF 6

SUBJECT  
**PROHIBITING WEAPONS IN THE WORKPLACE**

APPROVED BY OMNITRANS  
BOARD OF DIRECTORS

DATE: June 7, 2017

### **I. Purpose**

It is the policy of Omnitrans to maintain a work environment that is safe for all persons, including the community, and conducive to attaining high work standards. To achieve these objectives, the Agency prohibits the possession of firearms and weapons in the work place, regardless of any license or permit that an individual may have which otherwise authorizes the individual to carry firearms or weapons.

It is illegal and a criminal violation to possess weapons in public buildings (California Penal Code 171b and 171.7).

### **II. Scope**

This policy applies to all Omnitrans employees, including but not limited to staffing agency workers and contractors working for or with the Agency at any time, regardless of whether the Agency is the actual employer.

Possession of firearms and weapons is prohibited at all Omnitrans' offices, parking lots, agency vehicles and job sites, and in all Agency vehicles.

The following person/s are exempt from this policy as stated: a guard of a contract carrier operating an armored vehicle, and any law enforcement officer who is carrying out official duties engaged in protecting and preserving property or life within the scope of his or her employment.

Omnitrans will strictly enforce this policy. Violation of this policy will result in immediate disciplinary action, up to and including termination.

### **III. Procedure**

#### **A. COMMUNICATION OF POLICY**

(a) Each employee of the Agency shall receive a copy of this policy at the time of his/her hire and shall sign a copy of the acknowledgment. Employees who were employed before the effective date of this policy shall also receive a copy of this policy and shall sign a copy of the acknowledgment. A copy of the signed acknowledgment and of all new and revised policies throughout the employee's employment shall be maintained in each employee's personnel file.

(b) A copy of this policy shall be attached to each contractor's contract, and shall become a part of its contract. The contractor shall be responsible for communicating this policy to its employees and any subcontractors to which the contractor sublets any portion of its contract.



## PERSONNEL POLICY MANUAL

POLICY 707 PAGE 2 OF 6

### SUBJECT

### PROHIBITING WEAPONS IN THE WORKPLACE

APPROVED BY OMNITRANS  
BOARD OF DIRECTORS

DATE: June 7, 2017

#### B. PROHIBITED CONDUCT

(a) The transportation of firearms or weapons in Agency vehicles is prohibited. This includes but is not limited to:

- (1) to and from work,
- (2) when conducting Agency business,
- (3) at all times in Agency-owned or leased vehicles.

(b) The possession or carrying of permitted and non-permitted firearms or weapons while at Agency buildings, parking lots, sponsored events, and job sites.

(c) Exception: Power actuated tools which are manufactured for the use of fastening building materials and sanctioned tools for the purpose of performing Agency job duties are not subject to this policy.

#### C. SEARCH

(a) Omnitrans reserves the right to conduct reasonable, unannounced searches of Agency premises and personal searches of employees and others while entering, on, or leaving Agency premises, including, but not limited to, personal effects, vehicles, lockers, desks, tool boxes, clothing, meal containers, and baggage. Searches will be conducted when the Agency has a reasonable suspicion to believe that a particular employee may be in possession of a weapon or firearm.

(b) "Reasonable suspicion" is defined as a suspicion that is based on specific personal observations such as an employee's manner, disposition, behavior, speech, information provided to management by an employee, by law enforcement officials, by a security service, or by other persons believed to be reliable, or a suspicion that is based on other surrounding circumstances.

(c) Individuals refusing to allow an inspection will not be detained or forced to submit to the inspection. Refusal violates Agency policy and constitutes an act of insubordination constituting disciplinary action, up to and including separation of the employment relationship. Non-employees who refuse to allow an inspection will not be permitted on Agency premises and will be required to immediately leave the premises. Employees will be relieved of all duties while pending investigation.

#### D. DISCIPLINE

(a) Violations of any portion of this policy will subject the employee to discipline,



## PERSONNEL POLICY MANUAL

POLICY 707 PAGE 3 OF 6

### SUBJECT

### PROHIBITING WEAPONS IN THE WORKPLACE

APPROVED BY OMNITRANS  
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up to and including separation of employment.

(b) Violations by a contractor's employee or subcontractor of any portion of this policy may constitute a breach of contract and regardless will mandate the immediate removal of the contractor's employee from Agency premises, prohibition against the individual accessing Agency premises in the future, and may also constitute a breach of contract.

## E. REPORT OF VIOLATIONS

### 1. Employee Violations

Employees are required to report violations of this policy without regard to the relationship between the individual who initiates the prohibited behavior and the individual reporting it. An employee who believes that another employee may be in violation of this policy must report the alleged violation to the employee's manager or supervisor, the department director, security, or the appropriate departmental Human Resources representative.

Departments are responsible for implementing this policy. The Agency will promptly investigate allegations of violations of this policy.

OmniTrans reserves the right to authorize searches for prohibited weapons on its property when a violation is reported or when probable cause or reasonable suspicion is present consistent with law.

Employees should be aware that there is no reasonable expectation of privacy with respect to weapons in the workplace. The Agency's right to conduct searches includes, but is not limited to, such areas and items as lockers, desks, workstations, offices, purses, briefcases, bags, toolboxes, and lunch bags.

Searches of the employee's work area and belongings, as described above, may be conducted by the Security & Emergency Preparedness Coordinator, or designee. Searches of all types, including surrounding agency property, personal property and the employee may be conducted by law enforcement in accordance with law should reasonable suspicion be present. Any weapon found in violation of this policy may be confiscated. Refusal to permit a search may result in discipline, up to and including separation.

### 2. Visitor Violations

Visitors are not allowed to carry a weapon on the premises. Any visitor carrying a weapon into a posted no-carry agency facility is creating an elevated risk to security and safety that warrants a response leading to compliance with the law. If the visitor



## PERSONNEL POLICY MANUAL

POLICY 707 PAGE 4 OF 6

### SUBJECT

### PROHIBITING WEAPONS IN THE WORKPLACE

APPROVED BY OMNITRANS  
BOARD OF DIRECTORS

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poses an immediate risk to security or safety, law enforcement shall be notified immediately by calling 9-911. The visitor shall be considered an immediate risk to safety and security if he/she is acting in an aggressive, belligerent, confrontational, suspicious or in an otherwise questionable manner while carrying a weapon.

#### F. FALSE REPORTS

Employees making intentionally false and malicious complaints of weapons in the workplace will be subject to disciplinary action, up to and including separation and/or will be reported to the proper authorities as appropriate.

#### G. ROLES AND RESPONSIBILITIES

Employees are responsible for understanding and complying with the Policy Prohibiting Weapons in the Workplace.

Whenever there is a question as to whether an instrument, article or substance is considered a weapon in violation of this policy, it is the employee's responsibility to seek clarification. Employees seeking clarification should direct their questions to the agency's Security & Emergency Preparedness Coordinator at 909-379-7117 prior to bringing the item(s) to Omnitrans work sites and events, as well as agency-owned or leased facilities or vehicles.

#### H. SAFETY FIRST

In applying this policy, no employee shall take any action that will risk his or her own safety or the safety of other individuals. No attempt should ever be made by an employee to restrain or forcibly evict an armed person from agency premises.

An individual's continued non-compliance after being properly informed of the law (California Penal Code 171 (b)) will result in notification to law enforcement and discipline, up to and including separation of employment. Employees should notify security immediately.

An employee who feels an imminent danger to his or her own safety or the safety or security of others, should avoid any interaction with the individual. Immediately contact law enforcement by calling 9-911 and security at 909-379-7117.

#### I. ANTI-RETALIATION PROVISION

Omnitrans strictly prohibits any retaliation against an employee who has reported a possible breach of policy. If an employee feels that he or she has been subjected to retaliation in violation of this policy, the employee must immediately report it to his or her supervisor or other designated Human Resources representative.



## PERSONNEL POLICY MANUAL

POLICY 707 PAGE 5 OF 6

SUBJECT  
**PROHIBITING WEAPONS IN THE WORKPLACE**

APPROVED BY OMNITRANS  
BOARD OF DIRECTORS

DATE: June 7, 2017

### J. DEFINITIONS

1. **Firearm or weapon includes, but is not limited to:** A weapon, a pistol or rifle, whether loaded or unloaded, capable of firing a projectile and using an explosive as a propellant.
  - A firearm, whether loaded or unloaded, from which a shot may be discharged including but not limited to handguns, pistols, revolvers, shotguns, rifles, and bb guns;
  - A gun that can discharge a shot or a projectile by means of an explosive or gas, or compressed air;
  - A device designed to be used as a weapon, from which can be expelled a projectile by the force of any explosion or force of combustion;
  - Any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive;
  - Any destructive device;
  - Any device designed as a weapon and capable of producing great bodily harm, including but not limited to, stun guns, stun batons;
  - An electric weapon such as a taser gun;
  - Any combustible or flammable liquid, or other substance, device, or instrumentality that, in a manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm, or any fire that is used to produce death or great bodily harm;
  - Any knife that is carried with intention or calculation to produce death or great bodily harm having a blade length in excess of four (4) inches, the blade of which is fixed or is capable of being fixed in an unguarded position by the use of one or two hands. Switchblades are specifically prohibited. (Knives intended to be used as eating utensils, and stored or maintained in office kitchens or lunchrooms do not represent a violation of this policy.)
2. **Office:** All permanent facilities, all mobile facilities, all leased facilities, and any facility designated as an office by the agency.
3. **Parking lot:** All lots at permanent facility, park and rides, lots at project sites, any lot that the agency designates as a parking lot that is not at a permanent facility or project site.
4. **Agency vehicle:** All agency-owned buses/vehicles, all agency-leased buses/vehicles, all agency-rental buses/vehicles, and all personal vehicles for which the owner receives a vehicle allowance, all personal vehicles where the owner receives reimbursement for mileage.



## PERSONNEL POLICY MANUAL

POLICY 707 PAGE 6 OF 6

SUBJECT  
**PROHIBITING WEAPONS IN THE WORKPLACE**

APPROVED BY OMNITRANS  
BOARD OF DIRECTORS

DATE: June 7, 2017

5. **Search:** To examine in order to find something concealed.

6. **Job sites:** Any and all locations where the agency conducts business.

### SIGNS

1. At each entrance to buildings, parking lots, and project sites, a sign shall be posted in a location that is conspicuous to all who could enter a building, parking lot, or project site.
2. Signs shall have wording or pictogram that prohibits firearms, weapons and give notice of video surveillance. Signs shall be vandalism resistant and of the quality that they will not fade due to the elements.

**ATTACHMENT C - PRICING SCHEDULE**  
**SDD20-71, GRANT SERVICES**

<b>TASK</b>	<b>DESCRIPTION</b>	<b>Unit of Measure</b>	<b>Quantity</b>	<b>Unit Price</b>	<b>TOTALS</b>
<b>1</b>	<b>FUNDING NEEDS ASSESSMENT (One time - Lump Sum)</b>	Lump Sum	1	\$ 5,400	\$5,400
<b>2</b>	<b>GRANT RESEARCH (Monthly)</b>	Month	36	\$ 1,470	\$52,920
<b>3</b>	<b>FUNDING APPLICATION DEVELOPMENT</b>	Application	7	\$ 10,440	\$73,080
	<b>GRAND TOTAL</b>				\$131,400

# ATTACHMENT C - PRICING SCHEDULE

## SDD20-71, GRANT SERVICES

### COST ELEMENTS

					Project: Grant Services	
1	LABOR					
	LABOR CATEGORY (Please add additional categories as necessary)	*Billing Rate \$/HR	Hours	Extended Cost	Basis	
1	Project Manager (Lead Associate)	\$105.00	548.00	\$57,540.00	Blended rate to include labor, overhead, & profit	
2	Grant Writers (Support to Project Manager)	\$105.00	278.00	\$29,190.00	Blended rate to include labor, overhead, & profit	
3	Research Analyst	\$105.00	313.00	\$32,865.00	Blended rate to include labor, overhead, & profit	
4	Quality Control/Quality Assurance	\$105.00	39.00	\$4,095.00	Blended rate to include labor, overhead, & profit	
5	Executive Oversight	\$105.00	72.00	\$7,560.00	Blended rate to include labor, overhead, & profit	
6	Grant Management, Optional, Not Quoted	\$105.00	0.00	\$0.00		
7				\$0.00		
8				\$0.00		
9				\$0.00		
*Please Define Rate and Calculation:		Regular Rate: \$105.00 = Labor rate + ( labor rate X overhead rate) + profit rate	Overhead Rate: 45%			
		Overtime Rate: \$157.50 = Labor rate + (labor rate X 0.5) + ( labor rate X overhead rate) + profit rate	Profit Rate: 8%			
		Holiday Rate: \$210.00 = Labor rate + (labor rate X 1) + ( labor rate X overhead rate) + profit rate	Labor Escalation Rate: 2.5% annually			
TOTAL - LABOR (Hours/Costs)				\$131,250.00		
2	EXPENSES					
	ITEM CATEGORY (Please add additional categories as necessary)	Rates	Units	Extended Cost	Basis	
1	Travel	150.00	1.00	\$150.00	Mileage and tolls for on-site visits for Needs Assessment: 104 miles roundtrip (Irvine to SB City) x .575 = \$60 per trip + \$15 tolls = \$75 per trip; allowance for two on-site visits for Needs Assessment	
2				\$0.00		
3				\$0.00		
4				\$0.00		
5				\$0.00		
6				\$0.00		
7				\$0.00		
8				\$0.00		
9				\$0.00		
10				\$0.00		
TOTAL - Other Direct Costs				\$150.00		
TOTAL COSTS (Cost Element 1 + Cost Element 2)				\$131,400.00		



# Omnitrans Grant Services

Hours and Labor Categories for Each Task  
Three-year performance period

Tasks	Labor/Consulting/Materials/Equipment/Labor										
	Price (Unit Cost)	Units (HR, Mile, LS, Month, etc.)	Quantity	Total	Project Manager	Grant Writers (Support)	Research Analyst	Quality Control	Executive Oversight	Grant Mgmt. (Optional)	Total
<b>1. Needs Assessment (50 hrs + Travel Costs)</b>				<b>\$5,400</b>							<b>50</b>
On-Site Meeting (initial meeting to interview staff, tour sites, etc.); includes prep and travel time	\$105	HR	8	\$840	8						8
Develop Needs Assessment (Grant Strategy) Document	\$105	HR	38	\$3,990	8		25	4	1		38
Present Needs Assessment (On-Site Meeting); conference call optional; includes travel time if on-site	\$105	HR	4	\$420	4						4
				\$0							
<i>Travel On-Site Meeting #1</i>				\$0							
Mileage: Irvine to San Bernardino City (roundtrip)	\$0.575	Mile	104	\$60							
Tolls	\$15	LS	1	\$15							
				\$0							
<i>Travel On-Site Meeting #2 (can conduct by conference call if desired)</i>				\$0							
Mileage: Irvine to San Bernardino City (roundtrip)	\$0.575	Mile	104	\$60							
Tolls	\$15	LS	1	\$15							
				\$0							
				\$0							
<b>2. Grant Research (216 hrs + Fact Sheet Service @ ~288 hrs)</b>				<b>\$52,920</b>							<b>504</b>
Fixed Monthly Fee for Fact Sheet service (notification), attending workshops/webinars, etc. (approx. 8 hrs/mo x 36 mos = ~303 hrs); this line item can be reduced and hours shifted to #3 depending on desires	\$840	Month	36	\$30,240			288				288
Consultation (align needs assessment w/ funding opportunities, score project ideas, provide updates, go/no go consultation, monthly Grant Activity Report call, develop roll-up report, etc.) (6 hrs/mo x 36 mos)	\$105	HR	216	\$22,680	180				36		216
				\$0							
				\$0							
<b>3. Funding Application Development (assumes turnkey development) (696 hours)</b>				<b>\$73,080</b>							<b>696</b>
Grant Application No. 1 - assume high-level complexity (e.g., FHWA BUILD for electric buses)	\$105	HR	220	\$23,100	110	88		11	11		220
Grant Application No. 2 - assume high-level complexity (e.g., CalSTA Transit & Intercity Rail Capital	\$105	HR	160	\$16,800	80	64		8	8		160
Grant Application No. 3 - assume mid-level complexity (e.g., FTA Bus and Bus Facilities Program)*	\$105	HR	91	\$9,555	46	36		5	5		91
Grant Application No. 4 - assume mid-level complexity (e.g., FTA Low-No Grant Program)	\$105	HR	75	\$7,875	38	30		4	4		75
Grant Application No. 5 - assume low-level complexity (e.g., Caltrans Sustainable Transportation Planning)	\$105	HR	60	\$6,300	30	24		3	3		60
Grant Application No. 6 - assume low-level complexity (e.g., Volkswagen Settlement)	\$105	HR	50	\$5,250	25	20		3	3		50
Grant Application No. 7 - assume low-level complexity (e.g., Carl Moyer)	\$105	HR	40	\$4,200	20	16		2	2		40
				\$0							
<i>Examples cited within parenthesis, and the corresponding hours, are based on real historical labor from previous calls. The hours are subject to change based on the requirements for new solicitations/calls but deemed reliable for estimating purposes.</i>				\$0							
<i>Hard, direct costs including travel and cost for reprographics (for hard copy submissions) are included in the estimates above) and deemed de minimis</i>				\$0							
				\$0							
				\$0							
<b>Totals</b>				<b>\$131,400</b>	<b>548</b>	<b>278</b>	<b>313</b>	<b>39</b>	<b>72</b>	<b>-</b>	<b>1,250</b>

\*rounded total for Grant Application No. 3 to force balance with Pricing Form Pg 2



## CONTRACT AGREEMENT

between

CONTRACTOR  
USI Insurance Services LLC  
21250 Hawthorne Boulevard, Ste. 380  
Torrance, CA 90503

(hereinafter "CONTRACTOR")  
Telephone: 424-390-0010  
Email: [gary.delaney@usi.com](mailto:gary.delaney@usi.com)

Remit Address

.  
.  
.

And

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

### CONTRACT DOCUMENTS

**CONTRACT NO. HRS-20-34**

### **BROKER SERVICES FOR SUPPLEMENTAL INSURANCE**

#### Omnitrans Project Manager:

Name: Melissa Saenz  
Title: Human Resources Technician  
Telephone: (909) 379-7271  
Email: [melissa.saenz@omnitrans.org](mailto:melissa.saenz@omnitrans.org)

#### Contract Administrator:

Name: Frank Holland  
Title: Sr. Contract Administrator  
Telephone: (909) 379-7186  
Email: [frank.holland@omnitrans.org](mailto:frank.holland@omnitrans.org)



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ATTACHMENT A – SCOPE OF WORK

ATTACHMENT B - NA

ATTACHMENT C - PRICING - INDIRECT FEES/COMMISSIONS PAID

ATTACHMENT D – PROHIBITED WEAPONS IN THE WORKPLACE

This Agreement is made and entered into as of this 1st day of July 2020, by and between Omnitrans (hereinafter referred to as "OMNITRANS") and USI Insurance (hereinafter referred to as "CONTRACTOR").

## **RECITALS**

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

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

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

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

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

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

The term of this Agreement shall be from the date of execution of this Agreement and continue in effect through June 30, 2023, unless terminated as specified in Section 10 and 11 of this Agreement. Omnitrans has no obligation to purchase any specified amount of products/services. All applicable indemnification provisions in this Agreement shall remain in effect following the termination of this Agreement.

Omnitrans' election to extend the Agreement beyond the Initial Term shall not diminish its right to terminate the Agreement for Omnitrans' convenience or CONTRACTORS default as provided elsewhere in this Agreement. The "maximum term" of this Agreement shall be the period extended from July 1, 2020

through June 30, 2025, which period encompasses the Initial Term and the Option Year One and Option Year Two.

### **3. CONTRACT OPTIONS**

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

### **4. COMPENSATION**

Total compensation shall be the commission paid by the carriers to USI Insurance Services LLC : 8 percent for the Dental Plans and 10 percent for the Life Insurance, Cancer Insurance, Employee Assistance Program, Long Term Disability Insurance for all five years. There are no fees for the Flexible Spending Arrangement Section 125 IRC Plan.

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

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

CONTRACTOR shall submit invoices in duplicate to:

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

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

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

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

- Contract number
- Invoice number
- Description of service
- Date of Service
- Information as requested by OMNITRANS

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

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

## **6. AUDIT AND INSPECTION OF RECORDS**

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

## **7. NOTIFICATION**

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

To OMNITRANS:

Omnitrans  
1700 West Fifth Street  
San Bernardino, CA 92411  
Attn: Frank Holland  
Title: Sr. Contract Administrator

To CONTRACTOR:

USI Insurance Services LLC  
21250 Hawthorne Boulevard, Ste 380  
Torrance, CA 90503  
Attn: Gary Delaney  
Title: Senior Vice President

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

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

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

Project Manager: Melissa Saenz, Human Resources Technician

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

### **B. Contractor's Key Personnel**

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

<u>Name</u>	<u>Role</u>
Gary Delaney	VP Team Leader



Kristin Yokoyama

VP Employee Benefits

Daniel Kopti

Director of Compliance

Beth Kramer

Wellness Consultant

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

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

## **9. DISPUTE RESOLUTION**

Any disputes under this agreement will be subject to binding arbitration. In addition, any right to cease work under this contract will be governed by common law.

## **10. TERMINATION FOR CONVENIENCE**

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

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

- A. If CONTRACTOR fails to perform any of the provisions of this Agreement or so fails to make progress as to endanger timely performance of this Agreement, OMNITRANS may give CONTRACTOR written notice of such default. If CONTRACTOR does not cure such default or provide a plan to cure such default which is acceptable to OMNITRANS within the time permitted by OMNITRANS, then OMNITRANS may terminate this Agreement due to CONTRACTOR's breach of this Agreement.

- B. If a federal or state proceeding for relief of debtors is undertaken by or against CONTRACTOR, or if CONTRACTOR makes an assignment for the benefit of creditors, then OMNITRANS may immediately terminate this Agreement.
- C. If CONTRACTOR violates Section 28, Compliance with Lobbying Policies, of this Agreement, then OMNITRANS may immediately terminate this Agreement.
- D. In the event OMNITRANS terminates this Agreement as provided in this Section, OMNITRANS may procure, upon such terms and in such manner as OMNITRANS may deem appropriate, work similar in scope and level of effort to those so terminated, and CONTRACTOR shall be liable to OMNITRANS for all of its costs and damages, including, but not limited, any excess costs for such Work.
- E. All finished or unfinished documents and materials produced or procured under this Agreement shall become OMNITRANS' property upon date of such termination.
- F. If, after notice of termination of this Agreement under the provisions of this Section, it is determined for any reason that CONTRACTOR was not in default under the provisions of this Section, or that the default was excusable under the terms of this Agreement, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Section 10, Termination for Convenience.
- G. The rights and remedies of OMNITRANS provided in this Article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

## **12. ASSIGNMENT**

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

## **13. SUBCONTRACTING**

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

Member Agencies or officers, directors, employees or sureties thereof for nonpayment by CONTRACTOR.

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

#### 14. INDEPENDENT CONTRACTOR

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

#### 15. INSURANCE

##### A. MINIMUM INSURANCE COVERAGE

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

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

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

## 16. INDEMNITY

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

## 17. REVISIONS IN SCOPE OF WORK

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

## 18. RIGHTS IN TECHNICAL DATA

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

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

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

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

## **20. OWNERSHIP RIGHTS**

- A. In the event OMNITRANS rightfully obtains copies of Proprietary Data under the terms of the separate License Agreement and Escrow Agreement that govern rights in Documentation, Software and Intellectual Property created and/or developed by Contractor, its Third Party Software Contractors and its Suppliers as part of the Project, any derivative works and associated documentation created by or on behalf of OMNITRANS by Permitted Programmers (as defined in the License Agreement) shall be the sole and exclusive property of OMNITRANS (collectively, "OMNITRANS Intellectual Property"), and OMNITRANS may use, disclose and exercise dominion and full rights of ownership, in any manner in OMNITRANS Intellectual Property in connection with the use, operation and maintenance of a transportation system administered by OMNITRANS. No use of OMNITRANS Intellectual Property shall be made for any purpose other than in conjunction with a transportation system administered by CONTRACTOR, and OMNITRANS shall not sell, lease, rent, give away or otherwise disclose any OMNITRANS Intellectual Property to any outside third party other than Permitted Programmers. To the extent there may be any question of rights of ownership or use in any OMNITRANS Intellectual Property, Contractor shall require all of its subcontractors and suppliers (including without limitation its Third Party Software Contractors) to assign to OMNITRANS, all worldwide right, title and interest in and to all OMNITRANS Intellectual Property in a manner consistent with the foregoing terms of this paragraph. Contractor shall execute any documents as OMNITRANS may from time to time reasonably request to effectuate the terms of this paragraph.

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

## **21. WORK FOR HIRE**

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

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

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

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

## **23. EQUAL OPPORTUNITY**

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

## **24. STANDARD OF PERFORMANCE**

- A. CONTRACTOR shall perform and exercise and require its subcontractors to perform and exercise due professional care and competence in the performance of the Work in accordance with the requirements of this Agreement. CONTRACTOR shall be responsible for the professional quality, technical accuracy, completeness and coordination of the Work, it being understood that OMNITRANS will be relying upon such professional

quality, accuracy, completeness and coordination in utilizing the Work. The foregoing obligations and standards shall constitute the "Standard of Performance" for purposes of this Agreement. The provisions of this paragraph shall survive termination or expiration of this Agreement and/or final payment thereunder.

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

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

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

## **26. DISQUALIFYING POLITICAL CONTRIBUTIONS**

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

## **27. COMPLIANCE WITH LAW**

- A. CONTRACTOR shall familiarize itself with and perform the Work required under this Agreement in conformity with requirements and standards of OMNITRANS, municipal and public agencies, public and private utilities, special districts, and railroad agencies whose facilities and work may be

affected by Work under this Agreement. CONTRACTOR shall also comply with all Federal, state and local laws and ordinances.

- B. Government regulations that directly affect the CONTRACTOR'S performance of this contract and unforeseen impacts, which neither party could have contemplated at the onset of the contract and have an unconscionable impact on the CONTRACTOR may be given special pricing consideration. The parties, in good faith, shall review established rates and may adopt any mutually agreed new rates, which shall only be effective as agreed upon by the parties. Thorough documentation including all cost elements is required to support the Contractor's claim to any relief under this clause.

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

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

## **29. PUBLIC RECORDS ACT**

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



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

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

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

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

### **31. FORCE MAJEURE**

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

### **32. CONFIDENTIALITY**

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

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

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

way imply that OMNITRANS endorses CONTRACTOR's firm, service, and/or product.

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

#### **34. GOVERNING LAW**

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

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

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

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

- A. The CONTRACTOR warrants that it has all necessary licenses and permits required by the laws of the United States, State of California, and the County of San Bernardino, the Local Jurisdictions, and all other appropriate governmental agencies, and agrees to maintain these licenses and permits in effect for the duration of the Agreement. Further, FIRM warrants that its employees, agents, and contractors and subcontractors shall conduct themselves in compliance with such laws and licensure requirements including, without limitation, compliance with laws applicable to nondiscrimination, sexual harassment and ethical behavior throughout the duration of this Agreement. CONTRACTOR further warrants that it shall not retain or employ an unlicensed subcontractor to perform work on this Project. CONTRACTOR shall notify OMNITRANS immediately and in writing of its employees', agents', contractors' or subcontractors' inability to obtain or maintain, irrespective of the pendency of any appeal, any such licenses, permits, approvals, certificates, waivers, exemptions. Such inability shall be cause for termination of this Agreement.

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

### 37. PRECEDENCE

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement, and any and all of its Amendments, Appendices, Exhibits and Attachments; (2) provisions of HRS-20-34 and any and all of its Addenda, Appendices, Exhibits and Attachments; and (3) CONTRACTOR's proposal dated February 18, 2020 and its Appendices, Exhibits, Attachments and Best & Final Offer dated March 16, 2020.

### 38. ENTIRE AGREEMENT

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

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

OMNITRANS

USI INSURANCE SERVICES, LLC  
Company name:

\_\_\_\_\_  
Erin Rogers  
Interim CEO/General Manager

\_\_\_\_\_  
Gary Delaney  
Senior Vice President

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Federal Tax I.D. No. \_\_\_\_\_

DP \_\_\_\_\_

**ATTACHMENT A – SCOPE OF WORK**  
**HRS20-34**  
**BROKER SERVICES FOR SUPPLEMENTAL INSURANCE**

**Introduction**

1. Omnitrans requires the Broker and/or Broker of Record to market the Omnitrans' Dental, Life Insurance, Cancer Insurance, Employee Assistance Program, Long Term Disability Insurance, and Flexible Spending Arrangement, Section 125 Internal Revenue Code (IRC) Plan.
2. Contractor shall not receive commission in performance of this contract and scope of services from Omnitrans and are required to disclose the percentage in fees/commission paid to them by the carrier. Commissions are paid by the carriers to the Broker. Zero commissions or fees will be paid by Omnitrans to the Broker. These services are required to maximize benefits for employees and contain costs for both Omnitrans and its employees. Omnitrans has approximately 700 employees.

**B. Scope of Services**

1. Contractor shall perform the following services:
  - a. Market and place Omnitrans' supplemental insurance policies in anticipation of expiration of current policies:
    - Selection of the most suitable insurer(s) with whom to place risks, based on financial stability, ability to pay claims, and cost of insurance.
    - Assist in the completion of applications to the insurer(s), 120 days prior to the current policy expiration minimum.
    - Negotiate the terms and conditions of coverage and cost with carriers/insurer(s).
    - Ensure selected carriers/insurer(s) have excellent customer service and provide timely billing, reconciliation, and other services related to functions.
    - Ensure selected carriers/insurer(s) employ the latest technological tools such as online enrollment, billing, reporting and overall administrative functions.
  - b. Assist in establishing insurable values.
  - c. Act as liaison and assist in presenting difficult claims and collecting losses under applicable insurance policies.
  - d. Risk identification and evaluation
    - Assisting in identifying and measuring risks.
    - Developing alternatives to reduce insurance costs.
  - e. Assist in establishing insurance requirements on vendor supply and services contracts on an "as-needed" basis.
  - f. Assist Omnitrans in any and all resolutions with a myriad of issues regarding eligibility of coverage.

## **ATTACHMENT A – SCOPE OF WORK**

### **HRS20-34**

#### **BROKER SERVICES FOR SUPPLEMENTAL INSURANCE**

- g. Serve as ombudsman for Omnitrans with benefit carriers.
- h. Provide the latest technological tools such as a web-based secured portal that provides Omnitrans with access to its data, provides trend analysis and reporting mechanisms to manage the benefits for cost-savings. Most commonly known as a Benefits Information Management System or Risk Management Information System (RMIS).
- i. Keep Omnitrans informed in a timely manner of any new legislation and assist as necessary in implementing any new legislation to maintain compliance.
- j. Obtain benefits data or information, answer questions and provide analysis for Omnitrans upon request.
- k. Attend meetings upon Omnitrans request as reasonably requested.
- l. Initiate, suggest and/or develop benefit communication pieces as required or requested.
- m. Conduct meetings and training to explain any plan changes to employees and Human Resources staff as requested.
- n. Coordinate with Human Resources staff and participate in open enrollments as requested.
- o. Provide a web-based employee benefits portal where employees can view plan documents, plans enrolled in, dependents enrolled, etc.

#### **C. Other Conditions**

During the initial and option terms of the agreement, Contractor will be expected to initiate renewal activities for those insurance coverages currently in place.

Omnitrans reserves the right to place any insurance coverage with a direct writer or through a formal pooling program should it be deemed in Omnitrans' best interest.

Omnitrans will provide the Contractor with the most current census data for renewals.

**ATTACHMENT C -PRICING  
INDIRECT FEES/COMMISSIONS PAID  
HRS20-34  
BROKER SERVICES FOR SUPPLEMENTAL INSURANCE**

**INDIRECT FEES/COMMISSIONS PAID TO BROKER BY CARRIERS**

<b>Agreement Years</b>	<b>Begin/End Dates</b>	<b>Dental Plans</b>	<b>Life Insurance Accidental Death and Dismemberment</b>	<b>Cancer Insurance</b>	<b>Employee Assistance Program</b>	<b>Long Term Disability Insurance</b>	<b>Flexible Spending Arrangement Section 125 IRC Plan</b>
<b>Base Year 1</b>	<b>07-1-2020 to 06-30-2021</b>	<b>8%</b>	<b>10%</b>	<b>10%</b>	<b>10%</b>	<b>10%</b>	<b>0%</b>
<b>Base Year 2</b>	<b>07-1-2021 to 06-30-2022</b>	<b>8%</b>	<b>10%</b>	<b>10%</b>	<b>10%</b>	<b>10%</b>	<b>0%</b>
<b>Base Year 3</b>	<b>07-1-2022 to 06-30-2023</b>	<b>8%</b>	<b>10%</b>	<b>10%</b>	<b>10%</b>	<b>10%</b>	<b>0%</b>
<b>Option Year 1</b>	<b>07-1-2023 to 06-30-2024</b>	<b>8%</b>	<b>10%</b>	<b>10%</b>	<b>10%</b>	<b>10%</b>	<b>0%</b>
<b>Option Year 2</b>	<b>07-1-2024 to 06-30-2025</b>	<b>8%</b>	<b>10%</b>	<b>10%</b>	<b>10%</b>	<b>10%</b>	<b>0%</b>



## PERSONNEL POLICY MANUAL

POLICY 707 PAGE 1 OF 6

**SUBJECT**  
**PROHIBITING WEAPONS IN THE WORKPLACE**

**APPROVED BY OMNITRANS  
BOARD OF DIRECTORS**

DATE: June 7, 2017

### **I. Purpose**

It is the policy of Omnitrans to maintain a work environment that is safe for all persons, including the community, and conducive to attaining high work standards. To achieve these objectives, the Agency prohibits the possession of firearms and weapons in the work place, regardless of any license or permit that an individual may have which otherwise authorizes the individual to carry firearms or weapons.

It is illegal and a criminal violation to possess weapons in public buildings (California Penal Code 171b and 171.7).

### **II. Scope**

This policy applies to all Omnitrans employees, including but not limited to staffing agency workers and contractors working for or with the Agency at any time, regardless of whether the Agency is the actual employer.

Possession of firearms and weapons is prohibited at all Omnitrans' offices, parking lots, agency vehicles and job sites, and in all Agency vehicles.

The following person/s are exempt from this policy as stated: a guard of a contract carrier operating an armored vehicle, and any law enforcement officer who is carrying out official duties engaged in protecting and preserving property or life within the scope of his or her employment.

Omnitrans will strictly enforce this policy. Violation of this policy will result in immediate disciplinary action, up to and including termination.

### **III. Procedure**

#### **A. COMMUNICATION OF POLICY**

(a) Each employee of the Agency shall receive a copy of this policy at the time of his/her hire and shall sign a copy of the acknowledgment. Employees who were employed before the effective date of this policy shall also receive a copy of this policy and shall sign a copy of the acknowledgment. A copy of the signed acknowledgment and of all new and revised policies throughout the employee's employment shall be maintained in each employee's personnel file.

(b) A copy of this policy shall be attached to each contractor's contract, and shall become a part of its contract. The contractor shall be responsible for communicating this policy to its employees and any subcontractors to which the contractor sublets any portion of its contract.



## PERSONNEL POLICY MANUAL

POLICY 707 PAGE 2 OF 6

### SUBJECT

### PROHIBITING WEAPONS IN THE WORKPLACE

APPROVED BY OMNITRANS  
BOARD OF DIRECTORS

DATE: June 7, 2017

#### B. PROHIBITED CONDUCT

(a) The transportation of firearms or weapons in Agency vehicles is prohibited. This includes but is not limited to:

- (1) to and from work,
- (2) when conducting Agency business,
- (3) at all times in Agency-owned or leased vehicles.

(b) The possession or carrying of permitted and non-permitted firearms or weapons while at Agency buildings, parking lots, sponsored events, and job sites.

(c) Exception: Power actuated tools which are manufactured for the use of fastening building materials and sanctioned tools for the purpose of performing Agency job duties are not subject to this policy.

#### C. SEARCH

(a) Omnitrans reserves the right to conduct reasonable, unannounced searches of Agency premises and personal searches of employees and others while entering, on, or leaving Agency premises, including, but not limited to, personal effects, vehicles, lockers, desks, tool boxes, clothing, meal containers, and baggage. Searches will be conducted when the Agency has a reasonable suspicion to believe that a particular employee may be in possession of a weapon or firearm.

(b) "Reasonable suspicion" is defined as a suspicion that is based on specific personal observations such as an employee's manner, disposition, behavior, speech, information provided to management by an employee, by law enforcement officials, by a security service, or by other persons believed to be reliable, or a suspicion that is based on other surrounding circumstances.

(c) Individuals refusing to allow an inspection will not be detained or forced to submit to the inspection. Refusal violates Agency policy and constitutes an act of insubordination constituting disciplinary action, up to and including separation of the employment relationship. Non-employees who refuse to allow an inspection will not be permitted on Agency premises and will be required to immediately leave the premises. Employees will be relieved of all duties while pending investigation.

#### D. DISCIPLINE

(a) Violations of any portion of this policy will subject the employee to discipline,





## PERSONNEL POLICY MANUAL

POLICY 707 PAGE 3 OF 6

### SUBJECT

### PROHIBITING WEAPONS IN THE WORKPLACE

APPROVED BY OMNITRANS  
BOARD OF DIRECTORS

DATE: June 7, 2017

up to and including separation of employment.

(b) Violations by a contractor's employee or subcontractor of any portion of this policy may constitute a breach of contract and regardless will mandate the immediate removal of the contractor's employee from Agency premises, prohibition against the individual accessing Agency premises in the future, and may also constitute a breach of contract.

## E. REPORT OF VIOLATIONS

### 1. Employee Violations

Employees are required to report violations of this policy without regard to the relationship between the individual who initiates the prohibited behavior and the individual reporting it. An employee who believes that another employee may be in violation of this policy must report the alleged violation to the employee's manager or supervisor, the department director, security, or the appropriate departmental Human Resources representative.

Departments are responsible for implementing this policy. The Agency will promptly investigate allegations of violations of this policy.

OmniTrans reserves the right to authorize searches for prohibited weapons on its property when a violation is reported or when probable cause or reasonable suspicion is present consistent with law.

Employees should be aware that there is no reasonable expectation of privacy with respect to weapons in the workplace. The Agency's right to conduct searches includes, but is not limited to, such areas and items as lockers, desks, workstations, offices, purses, briefcases, bags, toolboxes, and lunch bags.

Searches of the employee's work area and belongings, as described above, may be conducted by the Security & Emergency Preparedness Coordinator, or designee. Searches of all types, including surrounding agency property, personal property and the employee may be conducted by law enforcement in accordance with law should reasonable suspicion be present. Any weapon found in violation of this policy may be confiscated. Refusal to permit a search may result in discipline, up to and including separation.

### 2. Visitor Violations

Visitors are not allowed to carry a weapon on the premises. Any visitor carrying a weapon into a posted no-carry agency facility is creating an elevated risk to security and safety that warrants a response leading to compliance with the law. If the visitor



## PERSONNEL POLICY MANUAL

POLICY 707 PAGE 4 OF 6

### SUBJECT

### PROHIBITING WEAPONS IN THE WORKPLACE

APPROVED BY OMNITRANS  
BOARD OF DIRECTORS

DATE: June 7, 2017

poses an immediate risk to security or safety, law enforcement shall be notified immediately by calling 9-911. The visitor shall be considered an immediate risk to safety and security if he/she is acting in an aggressive, belligerent, confrontational, suspicious or in an otherwise questionable manner while carrying a weapon.

#### F. FALSE REPORTS

Employees making intentionally false and malicious complaints of weapons in the workplace will be subject to disciplinary action, up to and including separation and/or will be reported to the proper authorities as appropriate.

#### G. ROLES AND RESPONSIBILITIES

Employees are responsible for understanding and complying with the Policy Prohibiting Weapons in the Workplace.

Whenever there is a question as to whether an instrument, article or substance is considered a weapon in violation of this policy, it is the employee's responsibility to seek clarification. Employees seeking clarification should direct their questions to the agency's Security & Emergency Preparedness Coordinator at 909-379-7117 prior to bringing the item(s) to Omnitrans work sites and events, as well as agency-owned or leased facilities or vehicles.

#### H. SAFETY FIRST

In applying this policy, no employee shall take any action that will risk his or her own safety or the safety of other individuals. No attempt should ever be made by an employee to restrain or forcibly evict an armed person from agency premises.

An individual's continued non-compliance after being properly informed of the law (California Penal Code 171 (b)) will result in notification to law enforcement and discipline, up to and including separation of employment. Employees should notify security immediately.

An employee who feels an imminent danger to his or her own safety or the safety or security of others, should avoid any interaction with the individual. Immediately contact law enforcement by calling 9-911 and security at 909-379-7117.

#### I. ANTI-RETALIATION PROVISION

Omnitrans strictly prohibits any retaliation against an employee who has reported a possible breach of policy. If an employee feels that he or she has been subjected to retaliation in violation of this policy, the employee must immediately report it to his or her supervisor or other designated Human Resources representative.



## PERSONNEL POLICY MANUAL

POLICY 707 PAGE 5 OF 6

SUBJECT  
**PROHIBITING WEAPONS IN THE WORKPLACE**

APPROVED BY OMNITRANS  
BOARD OF DIRECTORS

DATE: June 7, 2017

### J. DEFINITIONS

1. **Firearm or weapon includes, but is not limited to:** A weapon, a pistol or rifle, whether loaded or unloaded, capable of firing a projectile and using an explosive as a propellant.

- A firearm, whether loaded or unloaded, from which a shot may be discharged including but not limited to handguns, pistols, revolvers, shotguns, rifles, and bb guns;
- A gun that can discharge a shot or a projectile by means of an explosive or gas, or compressed air;
- A device designed to be used as a weapon, from which can be expelled a projectile by the force of any explosion or force of combustion;
- Any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive;
- Any destructive device;
- Any device designed as a weapon and capable of producing great bodily harm, including but not limited to, stun guns, stun batons;
- An electric weapon such as a taser gun;
- Any combustible or flammable liquid, or other substance, device, or instrumentality that, in a manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm, or any fire that is used to produce death or great bodily harm;
- Any knife that is carried with intention or calculation to produce death or great bodily harm having a blade length in excess of four (4) inches, the blade of which is fixed or is capable of being fixed in an unguarded position by the use of one or two hands. Switchblades are specifically prohibited. (Knives intended to be used as eating utensils, and stored or maintained in office kitchens or lunchrooms do not represent a violation of this policy.)

2. **Office:** All permanent facilities, all mobile facilities, all leased facilities, and any facility designated as an office by the agency.

3. **Parking lot:** All lots at permanent facility, park and rides, lots at project sites, any lot that the agency designates as a parking lot that is not at a permanent facility or project site.

4. **Agency vehicle:** All agency-owned buses/vehicles, all agency-leased buses/vehicles, all agency-rental buses/vehicles, and all personal vehicles for which the owner receives a vehicle allowance, all personal vehicles where the owner receives reimbursement for mileage.



## PERSONNEL POLICY MANUAL

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SUBJECT  
**PROHIBITING WEAPONS IN THE WORKPLACE**

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5. **Search:** To examine in order to find something concealed.

6. **Job sites:** Any and all locations where the agency conducts business.

### SIGNS

1. At each entrance to buildings, parking lots, and project sites, a sign shall be posted in a location that is conspicuous to all who could enter a building, parking lot, or project site.
2. Signs shall have wording or pictogram that prohibits firearms, weapons and give notice of video surveillance. Signs shall be vandalism resistant and of the quality that they will not fade due to the elements.