

## **AGENDA**

### **Commuter Rail & Transit Committee Meeting**

**October 15, 2015**

**9:00 AM**

**Location**

**SANBAG**

*First Floor Lobby*

1170 W. 3rd Street, San Bernardino, CA 92410

#### ***Commuter Rail & Transit Committee Membership***

**Chair**

Supervisor James Ramos  
County of San Bernardino

Mayor L. Dennis Michael  
City of Rancho Cucamonga

**Vice Chair**

Mayor Pro Tem Bill Jahn  
City of Big Bear Lake

Mayor Pro Tem Jon Harrison  
City of Redlands

Council Member Mike Leonard  
City of Hesperia

Mayor Deborah Robertson  
City of Rialto

Mayor Larry McCallon  
City of Highland

Mayor Ray Musser  
City of Upland

Mayor Paul Eaton  
City of Montclair

Council Member Richard Riddell  
City of Yucaipa

Council Member Alan Wapner  
City of Ontario

**San Bernardino Associated Governments  
County Transportation Commission  
County Transportation Authority  
County Congestion Management Agency  
Service Authority for Freeway Emergencies**

**AGENDA**

**Commuter Rail & Transit Committee Meeting**

**October 15, 2015  
9:00 AM**

**Location**

**SANBAG Office**

**First Floor Lobby**

**1170 W. 3rd Street, San Bernardino, CA 92410**

To obtain additional information on any items, please contact the staff person listed under each item. You are encouraged to obtain any clarifying information prior to the meeting to allow the Board to move expeditiously in its deliberations. Additional ***“Meeting Procedures”*** and agenda explanations are attached to the end of this agenda.

**CALL TO ORDER**

(Meeting Chaired by James Ramos)

- i. Pledge of Allegiance
- ii. Attendance
- iii. Announcements
- iv. Agenda Notices/Modifications – Marleana Roman

**Possible Conflict of Interest Issues**

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

**1. Information Relative to Possible Conflict of Interest**

Note agenda items and contractors/subcontractors, which may require member abstentions due to possible conflicts of interest.

**This item is prepared monthly for review by SANBAG Board and Committee members.**

**CONSENT CALENDAR**

Items listed on the Consent Calendar are expected to be routine and non-controversial. The Consent Calendar will be acted upon as a single motion. Items on the Consent Calendar may be removed for discussion by Board Members.

## **Consent - Transit/Rail**

### **2. Construction Contract Change Orders to on-going SANBAG Construction Contract with Shimmick Construction Company, Inc.**

Receive and File Change Orders.

**Carrie Schindler**

**This item is not scheduled for review by any other policy committee or technical advisory committee.**

### **3. August 2015 Right-of-Way Grants of Use Report**

That the Commuter Rail and Transit Committee receive August 2015 Right-of-Way Grants of Use Report.

**Monica Morales**

**This item is not scheduled for review by any other policy committee or technical advisory committee.**

## **DISCUSSION ITEMS**

### **Discussion - Transit/Rail**

#### **4. Redlands Passenger Rail Project - Operations and Maintenance Approach**

That the Commuter Rail and Transit Committee recommend the Board:

A. Authorize the Executive Director or his designee to begin negotiations with the Southern California Regional Rail Authority to provide Maintenance of Way and Dispatching services for the Redlands Passenger Rail Project; and

B. Authorize the Executive Director or his designee to begin negotiations with Omnitrans to provide Maintenance of Equipment and Rail Operations services for the Redlands Passenger Rail Project.

C. Approve modifications to Valley Metrolink/Passenger Rail Program Measure I 2010 – 2040 Strategic Plan Policy 40007 as shown in Attachment 1.

**Justin Fornelli**

**This item is not scheduled for review by any other policy committee or technical advisory committee.**

#### **5. Amendment 2 to Contract No. C12009 with Parsons Brinckerhoff for Construction Management for the Downtown San Bernardino Passenger Rail Project**

That the Commuter Rail and Transit Committee recommend the Board, acting in its capacity as the San Bernardino County Transportation Authority:

Approve Amendment No. 2 to Contract No. C12009 with Parsons Brinckerhoff for construction management services on the Eastern Maintenance Facility Project and Downtown San Bernardino Passenger Rail Project, increasing the total contract amount by \$3,193,391, to be funded with Local Transportation Fund – Rail, for an amended not-to-exceed amount of \$9,744,930.72 and extending the contract term through December 31, 2017. **Carrie Schindler**

**This item is not scheduled for review by any other policy committee or technical advisory committee. SANBAG General Counsel and Procurement Manager have reviewed this item and the draft contract amendment.**

**6. Cash Advance to Southern California Regional Rail Authority for Locomotive Procurement Down Payment**

That the Commuter Rail and Transit Committee recommend the Board, acting in its capacity as the San Bernardino County Transportation Commission:

A. Approve a \$3,329,321.00 cash advance in Valley Local Transportation Funds to the Southern California Regional Rail Authority for San Bernardino Associated Governments' share of the down payment for purchase of new locomotives.

B. Approve an expense budget amendment to the SANBAG Fiscal Year 2015/2016 Budget to increase Task No. 0379 Commuter Rail Capital by \$3,329,321.00 in Valley Local Transportation Funds for a new task total of \$10,843,927.00.

**Carrie Schindler**

**This item is not scheduled for review by any other policy committee or technical advisory committee.**

**7. Management Analyst II Position for Railroad Right-of-Way Management**

That the Commuter Rail and Transit Committee recommend the Board:

A. Approve the use of a vacant Management Analyst II position originally budgeted for the Vanpool Program for a new railroad right-of-way management position.

B. Approve an expense budget amendment to the SANBAG Fiscal Year 2015/2016 Budget to increase Task No. 0377 Commuter Rail Operating by \$125,000 in Rail Assets as the fund source for the right-of-way management position is different than the Vanpool Program position.

**Carrie Schindler**

**This item is not scheduled for review by any other policy committee or technical advisory committee.**

**8. Omnitrans E Street Corridor sbX/Bus Rapid Transit Project**

That the Commuter Rail and Transit Committee recommend the Board, acting in its capacity as the San Bernardino County Transportation Authority:

A. Approve Funding Agreement No. 15-1001261 with Omnitrans for the E Street Corridor sbX/Bus Rapid Transit Project, in an amount not-to-exceed \$1,715,283 to be funded with previously allocated Measure I Valley Express Bus/Bus Rapid Transit Program Funds, including reimbursement of costs incurred January 1, 2015 and later.

B. Approve an expense budget amendment to the SANBAG Fiscal Year 2015/2016 budget to increase Task No. 0311 Transit Capital by \$1,715,283 in Measure I Valley Express Bus/Bus Rapid Transit Program Funds for a new task total of \$2,376,771.

**Nessa Williams**

**This item is not scheduled for review by any other policy committee or technical advisory committee. SANBAG General Counsel and Procurement Manager have reviewed this item and the draft agreement.**

**9. Sub-recipient Funding Agreement with Omnitrans for the SANBAG County-Wide Vanpool Program**

That the Commuter Rail and Transit Committee recommend the Board, acting as the San Bernardino County Transportation Commission:

A. Approve Contract 15-1001265 with Omnitrans to define roles and responsibilities as a sub-recipient to Omnitrans for Federal Congestion Mitigation and Air Quality (FTA) 5307 - CMAQ funds for the SANBAG County-Wide Vanpool Program;

B. Approve changing the County-Wide Vanpool Program from the Transit and Passenger Rail Program to Commuter and Motorist Assistance Program.

**Monica Morales**

**This item is not scheduled for review by any other policy committee or technical advisory committee. SANBAG General Counsel and Procurement Manager have reviewed this item and the draft contract.**

**Comments from Board Members**

Brief comments from Board Members

**Public Comment**

Brief comments from the General Public

**ADJOURNMENT**

**Additional Information**

Attendance  
SANBAG Entities  
Acronym List  
Mission Statement

**The next Commuter Rail and Transit Committee Meeting will be November 12, 2015.**

## Meeting Procedures and Rules of Conduct

**Meeting Procedures** - The Ralph M. Brown Act is the state law which guarantees the public's right to attend and participate in meetings of local legislative bodies. These rules have been adopted by the Board of Directors in accordance with the Brown Act, Government Code 54950 et seq., and shall apply at all meetings of the Board of Directors and Policy Committees.

**Accessibility** - The SANBAG meeting facility is accessible to persons with disabilities. If assistive listening devices or other auxiliary aids or services are needed in order to participate in the public meeting, requests should be made through the Clerk of the Board at least three (3) business days prior to the Board meeting. The Clerk's telephone number is (909) 884-8276 and office is located at 1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor, San Bernardino, CA.

**Agendas** – All agendas are posted at 1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor, San Bernardino at least 72 hours in advance of the meeting. Complete packages of this agenda are available for public review at the SANBAG offices and our website: [www.sanbag.ca.gov](http://www.sanbag.ca.gov). Staff reports for items may be made available upon request. For additional information call (909) 884-8276.

**Agenda Actions** – Items listed on both the “Consent Calendar” and “Items for Discussion” contain suggested actions. The Board of Directors will generally consider items in the order listed on the agenda. However, items may be considered in any order. New agenda items can be added and action taken by two-thirds vote of the Board of Directors.

**Closed Session Agenda Items** – Consideration of closed session items *excludes* members of the public. These items include issues related to personnel, pending litigation, labor negotiations and real estate negotiations. Prior to each closed session, the Chair will announce the subject matter of the closed session. If action is taken in closed session, the Chair may report the action to the public at the conclusion of the closed session.

**Public Testimony on an Item** – Members of the public are afforded an opportunity to speak on any listed item. Individuals wishing to address the Board of Directors or Policy Committee Members should complete a “Request to Speak” form, provided at the rear of the meeting room, and present it to the SANBAG Clerk prior to the Board's consideration of the item. A "Request to Speak" form must be completed for *each* item when an individual wishes to speak on. When recognized by the Chair, speakers should be prepared to step forward and announce their name and address for the record. In the interest of facilitating the business of the Board, speakers are limited to three (3) minutes on each item. Additionally, a twelve (12) minute limitation is established for the total amount of time any one individual may address the Board at any one meeting. The Chair or a majority of the Board may establish a different time limit as appropriate, and parties to agenda items shall not be subject to the time limitations.

The Consent Calendar is considered a single item, thus the three (3) minute rule applies. Consent Calendar items can be pulled at Board member request and will be brought up individually at the specified time in the agenda allowing further public comment on those items.

**Agenda Times** – The Board is concerned that discussion take place in a timely and efficient manner. Agendas may be prepared with estimated times for categorical areas and certain topics to be discussed. These times may vary according to the length of presentation and amount of resulting discussion on agenda items.

**Public Comment** – At the end of the agenda, an opportunity is also provided for members of the public to speak on any subject within the Board's authority. *Matters raised under “Public Comment” may not be acted upon at that meeting. The time limits established in “Public Testimony on an Item” still apply.*

**Disruptive Conduct** – If any meeting of the Board is willfully disrupted by a person or by a group of persons so as to render the orderly conduct of the meeting impossible, the Chair may recess the meeting or order the person, group or groups of person willfully disrupting the meeting to leave the meeting or to be removed from the meeting. Disruptive conduct includes addressing the Board without first being recognized, not addressing the subject before the Board, repetitiously addressing the same subject, failing to relinquish the podium when requested to do so, or otherwise preventing the Board from conducting its meeting in an orderly manner. *Please be aware that a NO SMOKING policy has been established for meetings. Your cooperation is appreciated!*

**SANBAG General Practices for Conducting Meetings  
of  
Board of Directors and Policy Committees**

**Attendance.**

- The Chair of the Board or a Policy Committee (Chair) has the option of taking attendance by Roll Call or Self-Introductions. If attendance is taken by Roll Call, the Clerk of the Board will call out by jurisdiction or supervisorial district. The Member or Alternate will respond by stating his/her name. If attendance is by Self-Introduction, the Member or Alternate will state his/her name and jurisdiction or supervisorial district.
- A Member/Alternate, who arrives after attendance is taken, shall announce his/her name prior to voting on any item.
- A Member/Alternate, who wishes to leave the meeting after attendance is taken but before remaining items are voted on, shall announce his/her name and that he/she is leaving the meeting.

**Basic Agenda Item Discussion.**

- The Chair announces the agenda item number and states the subject.
- The Chair calls upon the appropriate staff member or Board Member to report on the item.
- The Chair asks members of the Board/Committee if they have any questions or comments on the item. General discussion ensues.
- The Chair calls for public comment based on “Request to Speak” forms which may be submitted.
- Following public comment, the Chair announces that public comment is closed and asks if there is any further discussion by members of the Board/Committee.
- The Chair calls for a motion from members of the Board/Committee.
- Upon a motion, the Chair announces the name of the member who makes the motion. Motions require a second by a member of the Board/Committee. Upon a second, the Chair announces the name of the Member who made the second, and the vote is taken.
- The “aye” votes in favor of the motion shall be made collectively. Any Member who wishes to oppose or abstain from voting on the motion, shall individually and orally state the Member’s “nay” vote or abstention. Members present who do not individually and orally state their “nay” vote or abstention shall be deemed, and reported to the public, to have voted “aye” on the motion.

**The Vote as specified in the SANBAG Bylaws.**

- Each Member of the Board of Directors shall have one vote. In the absence of the official representative, the alternate shall be entitled to vote. (Board of Directors only.)
- Voting may be either by voice or roll call vote. A roll call vote shall be conducted upon the demand of five official representatives present, or at the discretion of the presiding officer.

**Amendment or Substitute Motion.**

- Occasionally a Board Member offers a substitute motion before the vote on a previous motion. In instances where there is a motion and a second, the maker of the original motion is asked if he/she would like to amend the motion to include the substitution or withdraw the motion on the floor. If the maker of the original motion does not want to amend or withdraw, the substitute motion is not addressed until after a vote on the first motion.
- Occasionally, a motion dies for lack of a second.

**Call for the Question.**

- At times, a Member of the Board/Committee may “Call for the Question.”
- Upon a “Call for the Question,” the Chair may order that the debate stop or may allow for limited further comment to provide clarity on the proceedings.
- Alternatively and at the Chair’s discretion, the Chair may call for a vote of the Board/Committee to determine whether or not debate is stopped.
- The Chair re-states the motion before the Board/Committee and calls for the vote on the item.

**The Chair.**

- At all times, meetings are conducted in accordance with the Chair’s direction.
- These general practices provide guidelines for orderly conduct.
- From time-to-time circumstances require deviation from general practice.
- Deviation from general practice is at the discretion of the Chair.

**Courtesy and Decorum.**

- These general practices provide for business of the Board/Committee to be conducted efficiently, fairly and with full participation.
- It is the responsibility of the Chair and Members to maintain common courtesy and decorum.

*Adopted By SANBAG Board of Directors January 2008  
Revised March 2014*

- San Bernardino County Transportation Commission
- San Bernardino County Transportation Authority
- San Bernardino County Congestion Management Agency
- Service Authority for Freeway Emergencies

***Minute Action***

AGENDA ITEM: 1

***Date:*** October 15, 2015

***Subject:***  
 Information Relative to Possible Conflict of Interest

***Recommendation:***  
 Note agenda items and contractors/subcontractors, which may require member abstentions due to possible conflicts of interest.

***Background:***  
 In accordance with California Government Code 84308, members of the SANBAG Board may not participate in any action concerning a contract where they have received a campaign contribution of more than \$250 in the prior twelve months from an entity or individual, except for the initial award of a competitively bid public works contract. This agenda contains recommendations for action relative to the following contractors:

<b>Item No.</b>	<b>Contract No.</b>	<b>Principals &amp; Agents</b>	<b>Subcontractors</b>
2	C14001	Shimmick Construction Company Inc. <i>Paul Camaur</i>	Allied Steel Co., Inc. Marina Landscape, Inc. Innovative Concrete & Engineering Giroux Glass Winegardner Masonry Excelsior Elevator Fencecorp Inc. Ellis Excavating Gerdau Eberhard EMC Rutherford Co., Inc. M.B. Herzog Electric Hardy & Harper, Inc.
5	C12009	Parsons Brinkerhoff <i>Doug Sawyer</i>	Leighton Consulting Lynn Capouya Pacific Railway Enterprise Project Design Consultants RAW International RH & Associates SECA IRC Simon Wong

***Financial Impact:***  
 This item has no direct impact on the SANBAG budget.

*Entity: CMA, COG, CTA, CTC, SAFE*

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***Reviewed By:***

This item is prepared monthly for review by SANBAG Board and Committee members.

***Responsible Staff:***

Carrie Schindler, Director of Transit and Rail

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Approved  
Commuter Rail & Transit Committee  
Date: October 15, 2015

Witnessed By:

## *Minute Action*

AGENDA ITEM: 2

**Date:** *October 15, 2015*

**Subject:**

Construction Contract Change Orders to on-going SANBAG Construction Contract with Shimmick Construction Company, Inc.

**Recommendation:**

Receive and File Change Orders.

**Background:**

Contract Number C14001 with Shimmick Construction Company, Inc. for construction of the Downtown San Bernardino Passenger Rail Project had no Construction Change Orders (CCOs) approved since the last report to the Commuter Rail and Transit Committee.

**Financial Impact:**

This item is consistent with the SANBAG Fiscal Year 2015/2016 Budget.

**Reviewed By:**

This item is not scheduled for review by any other policy committee or technical advisory committee.

**Responsible Staff:**

Carrie Schindler, Director of Transit and Rail

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Approved  
 Commuter Rail & Transit Committee  
 Date: October 15, 2015

Witnessed By:

*Entity: CTC*

## Rail and Transit Construction Contracts

<b>Downtown San Bernardino Passenger Rail Project (C14001) – Executed Change Orders</b>		
Number	Description	Amount
1	Replace Signals Mast at Depot for Tracks P5 and P6, (CN 5-\$60,761), Remove and Dispose of Debris (CN 6-\$27,000).	\$87,761.00
2	Build Temporary Mini-High (CN 4.1-\$81,320), Removal of Property Owner Debris (CN 6.1-\$52,000). Install Temp Fence adjacent to San Bernardino Transit Center (CN 12-\$5,000).	\$138,320.00
3	Reconstruct CMU block wall trash enclosure at the San Manuel stadium (CN 010-\$34,950), Additional tree removal along railroad right-of-way (CN 16-\$18,000); Relocate equipment and materials at the San Bernardino Transit Center parking lot (CN 17-\$40,000); Construction of temporary platform at Santa Fe Depot (CN 18-\$40,000).	\$132,950.00
4	Additional electrical work for power pedestal, rail lubricator and signal house (CN 2-\$45,179.50). Additional miscellaneous electrical work (CN 14-\$26,476.62).	\$71,656.12
<b>CCO TOTAL</b>		<b>\$430,687.12</b>
<b>APPROVED CONTINGENCY</b>		<b>\$2,981,464.00</b>
<b>REMAINING CONTINGENCY</b>		<b>\$2,550,776.88</b>

Attachment: Rail and Transit CCOs Matrix\_Attachment-For Committee Mtg (2264 : Construction Contracts-CCOs)

**Bold-**Construction Change Orders approved since the last reporting to the Commuter Rail Transit Committee  
 Amounts shown in parentheses represent a credit to the Agency

## *Minute Action*

AGENDA ITEM: 3

**Date:** *October 15, 2015*

**Subject:**

August 2015 Right-of-Way Grants of Use Report

**Recommendation:**

That the Commuter Rail and Transit Committee receive August 2015 Right-of-Way Grants of Use Report.

**Background:**

The Board of Directors adopted the SANBAG Rail Property Policy No. 31602 on July 2, 2014. In accordance with Policy No. 31602, Section B - Policy Principals and Authority to Execute Grants of Right of Use, the Board authorized the Executive Director, or designee, to approve all grants of rights of use documents as approved to form by General Counsel.

Attachment A identifies the grants of right of use approved in August 2015.

**Financial Impact:**

This item is consistent with the approved SANBAG Fiscal Year 2015/2016 Budget. Presentation of the monthly Right-of-Way report demonstrates compliance with the SANBAG Rail Property Policy No. 31602.

**Reviewed By:**

This item is not scheduled for review by any other policy committee or technical advisory committee.

**Responsible Staff:**

Monica Morales, Transit Analyst

Approved  
 Commuter Rail & Transit Committee  
 Date: October 15, 2015

Witnessed By:

*Entity: CTA, CTC*

## Attachment A

### August 2015 Right-of-Way Grants of Use Report

Vendor Name	Contract No.	Agreement Type	Linked Agreements	Executed Date	Term Date	Application Fee	Annual Admin Fee	Use Fee	Use Fee Duration	Fee's Waived	Waived Fee Amount	Waived Fee Comments	
All American Asphalt	16-1001342	ROE	15-1001186, 15-1001187 & C14058	8/31/15	06/30/2016	\$ 579.80	\$0.00	\$390.00	one-time	x	\$2,760.20	Portion of fee waived because it is SANBAG's contribution to the project	
<b>Total One-time Application Fee</b>						<b>\$ 579.80</b>							
							<b>Total Annual Admin Fee</b>						<b>\$0.00</b>
								<b>Total One-time Use Fee</b>					<b>\$390.00</b>

Attachment: August 2015 Grants of Use (1871 : August 2015 Right-of-Way Grants of Use Report)

## *Minute Action*

AGENDA ITEM: 4

**Date:** *October 15, 2015*

**Subject:**

Redlands Passenger Rail Project - Operations and Maintenance Approach

**Recommendation:**

That the Commuter Rail and Transit Committee recommend the Board:

A. Authorize the Executive Director or his designee to begin negotiations with the Southern California Regional Rail Authority to provide Maintenance of Way and Dispatching services for the Redlands Passenger Rail Project; and

B. Authorize the Executive Director or his designee to begin negotiations with Omnitrans to provide Maintenance of Equipment and Rail Operations services for the Redlands Passenger Rail Project.

C. Approve modifications to Valley Metrolink/Passenger Rail Program Measure I 2010 – 2040 Strategic Plan Policy 40007 as shown in Attachment 1.

**Background:**

With the San Bernardino Associated Governments (SANBAG) Board of Directors identifying the Redlands Passenger Rail Project (RPRP) as one of its priority projects and RPRP gaining environmental clearance in March of this year, staff is moving forward with the delivery of the project. A key component to the successful implementation of this new passenger rail service is identifying the appropriate entities to operate and maintain the railroad and the associated rail equipment. SANBAG staff is recommending that the Southern California Regional Rail Authority (SCRRA) be contracted to provide Maintenance of Way and Dispatch services, while Omnitrans will be contracted with to provide Maintenance of Equipment and Rail Operations services.

Generally, there are four components of a passenger railroad system: Maintenance of Way, which ensures the track and supporting structures, drainage systems and agency-owned property meets Federal Railroad Administration (FRA) regulations, local codes, and is safe for use; Dispatch, which controls the operation of the railroad by granting authority for a train to occupy a given section of track; Maintenance of Equipment, which refers to the servicing, inspection, repair, and overhauling of railroad vehicles; and Operations, which constitutes the staff that actually operates the trains and provides customer interface.

In July of 2015, SANBAG completed a study analyzing the best approach of how the RPRP service should be managed and what type of organizational structure should be used. A separate legal review of the results of this study was also completed, which assessed the potential liability risks of the different organizational structures identified. Five organizational structures were reviewed with different responsibilities being held by SANBAG, the Southern California

*Entity: CTA*

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Regional Rail Authority (SCRRA), and Omnitrans. The different scenarios are listed below with the associated annual operations and maintenance costs:

<b>SCENARIO</b>	<b>Maintenance of Way</b>	<b>Dispatch</b>	<b>Maintenance of Equipment</b>	<b>Rail Operations</b>	<b>Annual Costs (millions)</b>
1	SCRRA	SCRRA	SCRRA	SCRRA	\$10.2
2	SCRRA	SCRRA	SANBAG	SANBAG	\$8.1
3	SANBAG	SANBAG	SANBAG	SANBAG	\$9.3
4	Omnitrans	Omnitrans	Omnitrans	Omnitrans	\$9.0
5	SCRRA	SCRRA	Omnitrans	Omnitrans	\$7.9

It is important to note that for all of the scenarios it was assumed that Maintenance of Way, Maintenance of Equipment, and Rail Operations would be completed by a contractor procured and managed by the entity listed above. Contracting of these services alleviates the agency's need to hire employees that would fall under the Railroad Retirement Board and Federal Employees Liability Act requirements, which would increase costs by 15% to 20% due to long term benefit payments. Dispatch services would also be a contracted service if not managed by SCRRA, who has direct employees dispatching their railroad. SCRRA uses contractors to operate all of the other components of their passenger rail system.

The evaluation of these five scenarios consisted of both a quantitative review, estimating annual operations and maintenance costs and taking into account additional full time employees that would be needed to manage the new RPRP service; and a qualitative analysis of the technical capacity of each agency to direct passenger rail services, ability to conduct oversight functions, governing board familiarity with passenger operations, ability to provide integration of other transit services, marketing, and fares, and local control of the new regional service.

Based on these evaluation factors it was determined that using SCRRA as the managing agency for Maintenance of Way and Dispatching services was ideal due to economies of scale and cost savings associated with using SCRRA's Positive Train Control (PTC) system. Nine miles of additional railroad could easily be incorporated into SCRRA's maintenance and inspection responsibilities with limited additional staff needed. Costs associated with developing and installing a standalone PTC system far exceeds the costs to adopt SCRRA's existing system. Based on this determination, Scenarios #3 and #4 were dropped from consideration.

From the three remaining scenarios, it was determined that Scenario #5 was preferred, Omnitrans as the managing agency of the Maintenance of Equipment and Rail Operations would be the best fit for the RPRP service. This is primarily due to Omnitrans' existing experience with passenger transit operations, their ability to integrate transit service with RPRP service in the operational area, and allowing the prioritization of funding between transit and rail within one organization. Omnitrans being designated as the manager of Rail Operations also maintains local control of this regional service and sets the ground work for any future intra-county rail service to be managed by Omnitrans. The legal assessment identified a liability issue with Omnitrans as a Joint Powers Authority (JPA), where liability could be passed down to the member cities; however, this is an issue in Omnitrans' current configuration and recommendations have been made for Omnitrans to become a statutory entity to alleviate this risk. The legal assessment also identified that the FRA might require SANBAG, as the railroad land owner, provide temporary oversight of Omnitrans management of the Maintenance of Equipment and Rail Operations

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contracts. This might cause some duplication of management effort; however, this has been estimated as a minimal expense.

Based on the technical analysis and key evaluation criteria discussed above, SANBAG staff recommends that SANBAG begin negotiations for contracts with SCRRA for Maintenance of Way and Dispatch services; and Omnitrans for Maintenance of Equipment and Rail Operations services for the RPRP rail service. Additionally, SANBAG staff is requesting changes to Measure I 2010-2014 Valley Metrolink/Passenger Rail Program Strategic Plan Policy 40007 to reflect the recommended operation and maintenance approach and to identify SANBAG as the lead agency for delivery of RPRP.

***Financial Impact:***

This item has no financial impact.

***Reviewed By:***

This item is not scheduled for review by any other policy committee or technical advisory committee.

***Responsible Staff:***

Justin Fornelli, Chief of Transit and Rail Programs

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Approved  
Commuter Rail & Transit Committee  
Date: October 15, 2015

Witnessed By:

ATTACHMENT 1

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San Bernardino Associated Governments	<b>Policy</b>	<b>40007</b>
Adopted by the Board of Directors April 1, 2009	Revised	11/04/1594/01/09
<b>Valley Metrolink/Passenger Rail (VMPR) Program Measure I 2010-2040 Strategic Plan</b>	Revision No.	19

**Important Notice: A hardcopy of this document may not be the document currently in effect. The current version is always the version on the SANBAG Intranet.**

<a href="#">Table of Contents</a>   <a href="#">Purpose</a>   <a href="#">References</a>   <a href="#">Definitions</a>   <a href="#">Policies for Valley Subarea Metrolink and Passenger Rail Program</a>   <a href="#">Revision History</a>
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**I. PURPOSE**

The purpose of this policy is to delineate the requirements for administration of the Valley Metrolink and Passenger Rail Program for Measure I 2010-2040. The policy establishes the funding allocation process, reimbursement mechanisms, project eligibility, and limitations on eligible expenditures.

**II. REFERENCES**

Ordinance No. 04-01 of the San Bernardino County Transportation Authority, Exhibit A – Transportation Expenditure Plan

**III. DEFINITIONS**

**Short Range Transit Plan (SRTP)** – A five-year financially constrained plan of projected transit service levels, operating and capital improvement expenses, updated biennially and submitted to SANBAG by local transit systems, including the passenger rail program.

**Time-Value of Money** – A concept that recognizes that the purchasing power of currency changes over time. Typically a dollar amount at the present time is worth more than the same amount in the future, due to inflation. Time-value of money is a central consideration for cash flow borrowing and program management in Measure I 2010-2040, and is taken into account to ensure that each program receives an equitable share of funds regardless of when the projects are delivered.

**IV. POLICIES FOR THE VALLEY SUBAREA METROLINK AND PASSENGER RAIL PROGRAM**

**A. Organization of the Valley Metrolink and Passenger Rail Program**

Policy VMPR-1: The Valley Metrolink and Passenger Rail Program shall follow the intent of Ordinance 04-01, i.e., to provide funding for capital improvements for the Metrolink commuter rail operations serving San Bernardino County; to establish a new passenger rail service operating between the cities of San Bernardino and Redlands; and to extend the LA Metro Gold Line to the Montclair Transit Center.

Policy VMPR-2: The Valley Metrolink and Passenger Rail Program shall receive 8% of the Measure I 2010-2040 Valley Subarea revenue over the life of the Measure, as adjusted for the time-value of money.

**B. Eligible Expenditures**

Policy VMPR-3: The following expenditures shall be eligible under the Valley Metrolink and Passenger Rail Program:

- Metrolink - The purchase of additional commuter rail passenger cars and locomotives for use on Metrolink lines serving San Bernardino County; the construction of additional track capacity necessary to operate more Metrolink trains serving San Bernardino County; matching federal and

Attachment: Policy40007r1 [Revision 1] (2070 : RPRP Operations and Maintenance Approach)

ATTACHMENT 1

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state funds used to maintain the railroad track, signal systems, and road crossings for passenger rail service.

- Redlands Passenger Rail - The acquisition of equipment, project development, construction and operation of a new passenger rail service connecting the cities of San Bernardino and Redlands. It is anticipated that Metrolink-SANBAG will be the lead agency for the construction project and it is anticipated that Omnitrans will operate the service and maintain the equipment with Metrolink providing maintenance-of-way and dispatch services.
- LA Metro Gold Line - The construction and operation of an extension of the LA Metro Gold Line to the Montclair Transit Center. It is anticipated that the Metro Gold Line Foothill Extension Construction Authority will be the lead agency for the construction project and LA Metro will be the operator.

**C. Allocation of Valley Metrolink and Passenger Rail Program Funding**

Policy VMPR-4: The SANBAG Board of Directors shall annually allocate funding to specific transit projects and programs as approved in the Passenger Rail SRTP.

Policy VMPR-5: Allocations to a specified project or program shall be limited to the annual forecast of revenues available within the Valley, unless there is also a residual balance of revenue available.

**D. Disbursement of Valley Metrolink and Passenger Rail Program Funds**

Policy VMPR-6: Funds approved for allocation by the SANBAG Board for Metrolink capital improvement projects shall be consistent with the annual apportionment agreed to by the SANBAG Board and identified in the adopted Southern California Regional Rail Authority (SCRRA) budget. Funds shall be disbursed to SCRRA within thirty (30) days of the receipt of each quarterly invoice.

Policy VMPR-7: Funds approved by the SANBAG Board for the Redlands passenger rail project shall be allocated to SCRRA in the amount identified in the annual adopted SCRRA budget and agreed to by the SANBAG Board. Funds shall be disbursed within thirty (30) days of the receipt of each quarterly invoice.

Policy VMPR-8: Funds approved by the SANBAG Board for allocation for Metro Gold Line extension to the Montclair Transit Center shall be allocated to the Metro Gold Line Construction Authority (Authority) in the amount identified in the Authority's annual adopted budget and agreed upon by the SANBAG Board. Funds shall be disbursed within thirty (30) days of the receipt of each quarterly invoice.

**V. REVISION HISTORY**

Revision No.	Revisions	Adopted
0	Adopted by the Board of Directors.	04/01/2009
<u>1</u>	<u>Par. IV. Revisions to Section B. Redlands Passenger Rail – revises lead agency for construction and operating structure.</u>	<u>Tentative 11/04/15</u>

## *Minute Action*

AGENDA ITEM: 5

**Date:** *October 15, 2015*

**Subject:**

Amendment 2 to Contract No. C12009 with Parsons Brinckerhoff for Construction Management for the Downtown San Bernardino Passenger Rail Project

**Recommendation:**

That the Commuter Rail and Transit Committee recommend the Board, acting in its capacity as the San Bernardino County Transportation Authority:

Approve Amendment No. 2 to Contract No. C12009 with Parsons Brinckerhoff for construction management services on the Eastern Maintenance Facility Project and Downtown San Bernardino Passenger Rail Project, increasing the total contract amount by \$3,193,391, to be funded with Local Transportation Fund – Rail, for an amended not-to-exceed amount of \$9,744,930.72 and extending the contract term through December 31, 2017.

**Background:**

On January 4, 2012, the San Bernardino Associated Governments (SANBAG) Board of Directors, acting as the San Bernardino County Transportation Authority, awarded Contract No. C12009 to Parsons Brinckerhoff (PB) for construction management services for the Eastern Maintenance Facility Project (EMF) and the Downtown San Bernardino Passenger Rail Project (DSBPRP) in an amount not-to-exceed \$6,262,324.72.

On February 6, 2013, Amendment No.1 to this contract was approved in the amount of \$289,215 for pre-construction utility verification, increasing the amount of Other Direct Cost (ODC) required for field office and adding Southern California Regional Rail Authority (SCRRA) to the indemnification section of the contracts for DSBPRP.

Staff is requesting Amendment No. 2 to Contract No. C12009 be approved, increasing the contract amount \$3,193,391 and extending the term from December 31, 2015 to December 31, 2017, to cover the cost of construction management services due to additional effort required for unforeseen issues and a substantially longer construction schedule.

A portion of the amendment amount, \$198,614 is related to the EMF project which was completed in early 2014. The EMF project costs have been validated and were within the total contract amount authorized but beyond the original fee identified for the EMF portion of work. The remaining, \$2,994,777 is related to the DSBPRP. The tasks that require additional level of effort are described in detail in Attachment A.1.

In general, close-out of the EMF project occurred four months later than originally planned due to an unforeseen sight condition related to construction of the Lytle Creek Channel Bridge, additional planting and walkway improvements required by Metrolink, administration of separate access road improvements, and claim negotiations with the contractor.

**Entity:** CTA

## Commuter Rail &amp; Transit Committee Agenda Item

October 15, 2015

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Construction of DSBPRP is underway and taking substantially longer than originally planned. There have been a significant number of utility conflicts requiring an additional level of effort to review revised plans and coordinate the required relocations with the various stakeholders which has taken additional time. This includes increased coordination efforts with the City of San Bernardino. Changes requested by the railroads, such as platform reconfiguration, temporary mini-high platforms, changes to construction staging, and restricted access, have caused additional work and time delays extending the contract term as well.

Approval of Amendment No. 2 to Contract No. C12009 in the amount of \$3,193,391 would bring the total contract value to \$9,744,930.72 and extend the term by two years. The increased fee is 13.3% of the construction capital cost of \$73,227,051.10, and within the industry standard of 15%.

In addition, Amendment No. 2 eliminates the requirement for retaining 10% of each payment due to PB. Retention is not generally used for construction management services and provides no significant benefits to SANBAG, but creates an additional administrative burden and has therefore been determined to be unnecessary.

***Financial Impact:***

This item is consistent with the Fiscal Year 2015/2016 SANBAG Budget. Funding for the contract amendment is provided under Task No. 0323-San Bernardino Passenger Rail Project.

***Reviewed By:***

This item is not scheduled for review by any other policy committee or technical advisory committee. SANBAG General Counsel and Procurement Manager have reviewed this item and the draft contract amendment.

***Responsible Staff:***

Carrie Schindler, Director of Transit and Rail

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Approved  
Commuter Rail & Transit Committee  
Date: October 15, 2015

Witnessed By:

**Contract Summary Sheet**  
**General Contract Information**

Contract No: C12009 (00-1000583) Amendment No.: 2 Vendor No.: 1610  
 Vendor/Customer Name: Parsons Brinckerhoff, Inc. Sole Source?  Yes  No  
 Description: Construction Management Services for the Eastern Maintenance Facility and Downtown San Bernardino Passenger Rail Project  
 Start Date: 12/08/2011 Expiration Date: 12/31/2015 Revised Expiration Date: 12/31/2017  
 Has Contract Term Been Amended?  No  Yes - Please Explain Construction schedule extended  
 List Any Related Contracts Nos.: \_\_\_\_\_

Dollar Amount			
Original Contract	\$ 6,262,324.72	Original Contingency	\$ -
Revised Contract (Inclusive of Prior Amendments)	\$ 6,551,539.72	Revised Contingency (Inclusive of Prior Amendments)	\$ -
Current Amendment	\$ 3,193,391.00	Contingency Amendment	\$ -
TOTAL CONTRACT VALUE	\$ 9,744,930.72	TOTAL CONTINGENCY VALUE	\$ -
		TOTAL DOLLAR AUTHORITY (Contract Value and Contingency)	\$ 9,744,930.72

Executive Director Date: \_\_\_\_\_  
 Executive Director Action: \_\_\_\_\_  
 Board of Directors Date: 11/04/2015  
 Approve Amendment No. 2 to Contract No. C12009 with Parsons Brinckerhoff for construction management services on the Eastern Maintenance Facility Project and Downtown San Bernardino Passenger Rail Project, increasing the total contract amount by \$3,193,391, to be funded with Local Transportation Fund – Rail, for an amended not-to-exceed amount of \$9,744,930.72 and extending the contract term through December 31, 2017.  
 Board of Directors Action: \_\_\_\_\_

Invoice Warning: 20% Renewals: \_\_\_\_\_ Type:  Capital  PAA  Other  
 Retention: % Maximum Retention: \$ -  
 Services:  Construction  Intrgrnt/MOU/COOP  A & E Services  Other Professional Services  
 Disadvantaged Business Enterprise (DBE) Goal %

**Contract Management: Receivable**

E-76 and/or CTC Date \_\_\_\_\_ (Attach Copy)  Program Supplement No.: \_\_\_\_\_  
 Finance Letter  Reversion Date: \_\_\_\_\_  EA No.: \_\_\_\_\_

**All of the above MUST be submitted to FINANCE including originals, amendments and miscellaneous transaction changes**

**Additional Information**

Project Manager: Victor Lopez

Attachment: C12009-2\_CSS [Revision 2] (2184 : Amendment 2 to Contract No. C12009 with Parsons Brinckerhoff)

**AMENDMENT NO. 2 TO CONTRACT NO. C12009**

**FOR**

**CONSTRUCTION MANAGEMENT SERVICES FOR THE DOWNTOWN SAN  
BERNARDINO PASSENGER RAIL PROJECT**

**(PARSONS BRINCKERHOFF, INC.)**

This AMENDMENT No. 2 to Contract No. C12009 (this “Amendment”) is made by and between Parsons Brinckerhoff, Inc. (hereafter called “CONSULTANT”) and the San Bernardino Associated Governments, acting in its capacity as the San Bernardino County Transportation Authority (hereafter called “AUTHORITY”). The AUTHORITY and CONSULTANT are each a “Party” and collectively “Parties” herein.

**RECITALS:**

- A. AUTHORITY, under Contract No. C12009, has engaged CONSULTANT to provide construction management services for the Eastern Maintenance Facility Project and Downtown San Bernardino Passenger Rail Project; and
- B. On February 12, 2013, AUTHORITY and CONSULTANT entered into Amendment No. 1 to extend the indemnification provisions of the Contract to the benefit of the Southern California Regional Rail Authority(SCRRA) and add additional scope for Construction Utility Verification.
- C. AUTHORITY and CONSULTANT desire to amend the contract increasing the contract amount to provide for additional construction management services, eliminate the retention clause, and to extend the contract term to December 31, 2017; and
- C. The Parties agree that the additional services will increase the Not-To-Exceed amount by \$3,193,391.

**NOW THEREFORE**, the Parties mutually agree to amend Contract No. C12009 as follows:

1. The Scope of Services for Contract No. C12009 shall be amended to reflect the changes and additions described in Attachment A.1 to this Amendment No. 2, all to be performed to AUTHORITY’s satisfaction. Except as specifically amended in Attachment A.1, the current provisions of the Scope of Services shall remain in force and effect.
2. ARTICLE 2. PERIOD OF PERFORMANCE is deleted and replace in its entirety to read as follows:

“ARTICLE 2. PERIOD OF PERFORMANCE

The Period of Performance by CONSULTANT under this Contract shall commence upon issuance of a written Notice To Proceed (NTP) issued by Authority and shall continue in effect through December 31, 2017, or until otherwise terminated, or unless extended as hereinafter provided by written amendment.”

- 2. Amend Article 3, “Price”, sub-paragraph 3.2, to delete the first sentence and replace with the following:  
  
“The total not-to-exceed amount is Nine Million Seven Hundred Forty-Four Thousand Nine Hundred Thirty Dollars Seventy Two Cents (\$9,744,930.72) for the services to be provided under this Contract.”
- 3. Delete sub-paragraph 4.4 of Article 4, “Payment”, , and replace with the following:  
  
“4.4 NOT USED”
- 4. Except as otherwise specified herein or in Attachment A.1, the modified and additional services set forth in Attachment A.1 shall be compensated in the same manner and under the same procedures as for the services under Contract No. C12009 and are subject to the amended not-to-exceed figure set forth in paragraph 2 above. Attachment B.1 to this Amendment No. 2, contains the projected budget for the cost components of the price increase negotiated by the parties for the completion of the modified and additional services set forth in Attachment A.1.
- 5. Attachment A.1 and Attachment B.1 are attached to and incorporated into this Amendment No. 2.
- 6. Contract No. C12009 and Amendment No. 1 are incorporated into this Amendment.
- 7. Except as amended by this Amendment No. 2, all other provisions of Contract No. C12009, as amended, remain in full force and effect.

-----Signatures are on the following page-----

Attachment: C12009-2\_Amendment (2184 : Amendment 2 to Contract No. C12009 with Parsons Brinckerhoff)

IN WITNESS WHEREOF, the Parties have duly executed this Amendment No. 2 below.

**PARSONS BRINCKERHOFF, INC**

By: \_\_\_\_\_  
Douglas B. Sawyer  
Sr. Vice President

Date: \_\_\_\_\_

**AUTHORITY**

By: \_\_\_\_\_  
Ryan McEachron  
President, Board of Directors

Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Robert D. Herrick  
Assistant General Counsel

Date: \_\_\_\_\_

**CONCURRENCE:**

By: \_\_\_\_\_  
Jeffery Hill  
Procurement Manager

Date: \_\_\_\_\_

Attachment: C12009-2\_Amendment (2184 : Amendment 2 to Contract No. C12009 with Parsons Brinckerhoff)

**Amendment No. 2 to Construction Management Services  
Contract No. C12009 with Parsons Brinckerhoff  
September 23, 2015**

Downtown San Bernardino Passenger Rail Project (DSBPRP):

Parsons Brinckerhoff (PB) will extend construction management services for an additional 18 months, from January 2016 through June 2017, as a result of additional work activities/unforeseen issues which have occurred since the project's inception. Additional efforts include inspection, materials testing, staking, and construction management/administration for an extended period of time. To date, at least 259 Requests for Information (RFI) and 86 Requests for Change (RFC) have been submitted by the contractor. More RFIs and RFCs are expected to continue due to project complexity. RFCs received to date include installing a rail lubricator, temporary mini-high platform, signal replacement, and electrical work. Unforeseen conditions since the Notice to Proceed on April 9, 2014, have generated many extra Time and Material tickets from the contractor, which require additional field inspection and office administration. PB will also verify that commissioning is completed, punch list items are addressed, and the project is closed out properly. In addition, PB will assist SANBAG in negotiating a final settlement of workdays and CCOs. Numerous design revisions (48 to date) have been issued by HDR Engineering, Inc., the design engineer, since the beginning of the project. Additional/unforeseen issues which have occurred since the project's inception and extended the project duration include:

- Utility Conflicts and Delays

The project's baseline schedule has been impacted by numerous utility conflicts. For sewer and water conflicts, the City required that plans be produced, and PB had to review them and obtain City approval. None of the Utility Agreements were finalized when the project was bid, requiring PB to provide additional coordination during construction. Edison has been slow relocating their overhead lines on K Street, delaying K Street construction, which in turn has delayed Third Street construction. The storm drain leading to the detention basin had a conflict with a sewer line, which had to be reconstructed, requiring additional design, review, and formal approval.

- City Requirements

The City, under several different management teams, called for the contractor and CM to make many changes, such as requiring trenches to be backfilled each night, instead of allowing steel plates to be temporarily installed. To properly install pipe and place backfill, an entire crossing must be closed, and the City insists that only one street be closed at a time, delaying construction. The City approved mastic sealant for the storm drain joints, however, during construction, they insisted on mortared joints. Traffic Control Plans were approved by City staff, only to be changed by City inspectors in the field.

- Railroad Impacts

Changes requested by Metrolink have caused additional work. These changes include platform reconfiguration, temporary mini-high platforms, and changes to the construction staging. Metrolink insisted that Tracks P-5 and P-6 stay open during construction and accommodate six-car trains, rather than the previously-stipulated five-car trains. This meant relocating signals and bumping posts, and extending the mini-high platforms. Additional coordination was required due to Metrolink's delay in fully vacating the

Inland Eastern Maintenance Facility. Additionally, at the on-set of the project the plan was that one safety briefing a week be done by the Employee in Charge when the track was taken out of service at the beginning of the work week. It has been determined that a daily briefing is required which has increased the coordination effort and time as work starts at various locations along the project. BNSF did not allow access to the Redlands Branch until June 1, 2015 for signal work.

- ROW

Letters regarding Temporary Construction Easements were prepared and sent to 51 property owners. These TCEs required extensive tracking and coordination with SANBAG's legal representatives. Access to certain parcels was delayed, slowing construction and construction oversight.

- Demolition Issues

Four houses were demolished on K Street. City permitting issues were encountered and there were delays relocating the water, sewer, and gas lines. Many underground utilities were not located where shown on the plans, requiring field-directed changes and additional coordination with the utility companies.

During the demolition of the Heftner Building near Third Street, an underground storage tank was discovered. PB provided environmental professionals to study the tank and provide recommendations to properly dispose of the tank.

- Impacts with Adjacent San Bernardino Transit Center (SBTC) Project

The original plan called for the DSBPRP to be constructed first, followed by the San Bernardino Transit Center. As it turned out, SBTC construction started first, and then DSBPRP construction started, resulting in both projects being built simultaneously. This required additional survey and coordination.

- Sub-consultants

PB's sub-consultant Leighton was supposed to perform quality assurance testing. Leighton is now performing quality control testing for concrete and soil compaction, in accordance with the contractor's contract with SANBAG. This has resulted in many more tests than originally anticipated. The City has mandated that a full-time soils technician be present for backfilling activities within City right-of-way. The construction contract states backfill compaction tests were to be made at 250 foot intervals.

PB's sub-consultant SECA has been replaced by Pacific Railway Enterprises (PRE). The original signal inspection scope has been expanded to include communications inspection and commissioning.

#### Eastern Maintenance Facility Project:

The Eastern Maintenance Facility Project (EMF) was implemented prior to the DSBPRP but under the same construction management contract, Contract No. C12009. The construction contract for the EMF Project preceded the DSBPRP so that Metrolink trains stored at the existing Inland Eastern Maintenance, located east of the San Bernardino Depot and adjacent to the DSBPRP platform, storm drain, and track work, would be not be in conflict with the DSBPRP construction activities. EMF construction was performed by LA Engineering under a stand-alone construction contract; however the construction management services were performed under the

same contract as DSBPRP. These services included staking, inspection, materials testing, construction administration, and claims mitigation. The overall project was extended by four months due to impacts on bridge construction, yard tracks, and closeout services, as described below:

- Lytle Creek Channel Bridge

The Lytle Creek Channel Bridge was a key element of the EMF project, and its construction was on the schedule's critical path. During construction, a number of challenges occurred which affected construction operations, including encountering unforeseen buried debris during shoring installation, causing additional contractor work and requiring additional working days. The water table was encountered when drilling CIDH piles, which required an additional 20 days of installation, which in turn extended PB's time on the project as well. Concrete placed on the bridge gained strength slowly, doubling the 28-day curing time. This affected subsequent construction operations on the bridge. Extra core testing by PB's lab and an independent lab was required. QC testing was added to PB's existing task of QA testing. This increased PB's material testing costs.

- Additional Items Required at EMF Yard

Additional plating and walkway materials required by Metrolink caused additional work for the contractor and extended the contract time. After the contractor's contract was closed out, carryover items including striping, signage, and access roadway surfacing were given to a subsequent contractor to complete. This required additional oversight from PB.

- Closeout Services

There were numerous reviews and rebuttals of the contractor's time impact analysis. This increased the efforts of the PB team including the project scheduler. Additional work also involved resolving 13 RFCs by the contractor. PB's successful negotiations resulted in the claim amount initially requested by LA Engineering by one-third.

## *Minute Action*

AGENDA ITEM: 6

**Date:** *October 15, 2015*

**Subject:**

Cash Advance to Southern California Regional Rail Authority for Locomotive Procurement Down Payment

**Recommendation:**

That the Commuter Rail and Transit Committee recommend the Board, acting in its capacity as the San Bernardino County Transportation Commission:

A. Approve a \$3,329,321.00 cash advance in Valley Local Transportation Funds to the Southern California Regional Rail Authority for San Bernardino Associated Governments' share of the down payment for purchase of new locomotives.

B. Approve an expense budget amendment to the SANBAG Fiscal Year 2015/2016 Budget to increase Task No. 0379 Commuter Rail Capital by \$3,329,321.00 in Valley Local Transportation Funds for a new task total of \$10,843,927.00.

**Background:**

In July 2015, the Southern California Regional Rail Authority (SCRRA) Board authorized their Chief Executive Officer to exercise the option under SCRRA Contract No. EP1181-14 with Electromotive Diesel, Inc. (EMD) to procure seventeen Tier 4 locomotives instead of proceeding with rehabilitation of existing locomotives. In June 2015, SCRRA staff provided an analysis that demonstrated the advantages of purchasing replacement units instead of rehabilitating existing locomotives as was originally planned in development of the Fiscal Year 2015/2016 SCRRA Budget. The cost comparison showed that for the set of seventeen locomotives, it was more cost-effective to replace the fleet with new locomotives rather than rehabilitate the old locomotives, only to have to replace them in ten years when they reach the end of their useful life. Replacement with new locomotives also demonstrated several advantages over rehabilitation in operating costs and efficiencies. The total cost to procure the seventeen locomotives is \$109.57 million.

Funding for procurement of the seventeen locomotives is through a variety of Federal, State and local funds. This includes \$53.50 million from the South Coast Air Quality Management District (SCAQMD) to be received over five years and \$32.03 million in State Transit and Intercity Rail Capital Program (TIRCP) funds. This results in need of \$24.04 million in member agencies subsidies with SANBAG share being \$3.72 million. A portion of SANBAG's share, \$2.66 million, is coming from approved prior year subsidies allocated to rolling stock rehabilitation projects that were either abandoned, discontinued, or had cost savings. The remaining portion, \$1.06 million, is coming from SANBAG's Fiscal Year 2015/2016 rehabilitation subsidy for locomotive overhaul approved by the SANBAG Board in June 2015. All but \$107,000 of SANBAG's contribution comes from Federal funds.

*Entity: CTC*

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In accordance with Contract No. EP1181-14, the deadline to execute the procurement option with EMD for the new locomotives is October 15, 2015 and a down payment of \$21.4 million is required. Based on the immediate need for funds and the long lead time associated with securing Federal funds, SCRRA has requested that \$3.33 million of SANBAG's \$5.65 million remaining Fiscal Year 2015/2016 operating subsidy, funded with Local Transportation Funds and readily available for disbursement, be advanced to cash flow SANBAG's share of the down payment. SANBAG staff agreed to advance our share out of the remaining operating subsidy initially due to the immediate need. However, due to SANBAG's inability to ensure when the actual fund sources for the locomotive procurement become available, SANBAG staff is recommending that a separate cash advancement be approved effectively keeping the operating subsidy whole. The cash advance will be reconciled through a credit on SANBAG's remaining Fiscal Year 2015/2016 operating subsidy or through SCRRA's Fiscal Year 2016/2017 budget approval process.

***Financial Impact:***

This item is not consistent with the Fiscal Year 2015/2016 Budget. A budget amendment has been requested under Recommendation B.

***Reviewed By:***

This item is not scheduled for review by any other policy committee or technical advisory committee.

***Responsible Staff:***

Carrie Schindler, Director of Transit and Rail

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Approved  
Commuter Rail & Transit Committee  
Date: October 15, 2015

Witnessed By:

## *Minute Action*

AGENDA ITEM: 7

**Date:** *October 15, 2015*

**Subject:**

Management Analyst II Position for Railroad Right-of-Way Management

**Recommendation:**

That the Commuter Rail and Transit Committee recommend the Board:

- A. Approve the use of a vacant Management Analyst II position originally budgeted for the Vanpool Program for a new railroad right-of-way management position.
- B. Approve an expense budget amendment to the SANBAG Fiscal Year 2015/2016 Budget to increase Task No. 0377 Commuter Rail Operating by \$125,000 in Rail Assets as the fund source for the right-of-way management position is different than the Vanpool Program position.

**Background:**

San Bernardino Associated Governments (SANBAG) owns 58.8 miles of railroad right-of-way and has over 1,300 approved grants-of-use agreements with various entities along the right-of-way. Management of SANBAG's railroad right-of-way is currently done through a combination of SANBAG staff and an on-call right-of-way property management consultant with the consultant taking the lead. Typical right-of-way management activities include preparation and management of grants-of-use agreements, development and implementation of property management procedures, disposal of excess property, responding to inquiries, research, field inspections, and tracking maintenance needs such as weed and graffiti abatement. The on-call consultant averages about 4,000 hours annually and the average annual cost based on the last three fiscal years is \$615,000. In Fiscal Year 2014/2015 SANBAG staff dedicated approximately 550 hours to right-of-way management activities at a cost of \$55,000. The combined total of consultant and SANBAG staff time is \$670,000. SANBAG currently generates an average of \$500,000 annually from grants-of-use revenue, identified as Rail Assets Funds, and is using fund balance to sustain the cost of right-of-way management.

SANBAG staff is concerned that costs are exceeding revenue and that institutional knowledge is not being developed. Additionally, the billing process for the grants-of-use revenue is being facilitated by the consultant with very little participation by SANBAG staff. Staff believes taking a more hands on approach with management of railroad right-of-way activities is important. As such, staff analyzed the needs and is recommending a full time Management Analyst II position to take the lead on railroad right-of-way management activities with assistance from an on-call right-of-way property management consultant.

Tasks to be assigned to the new in-house staff person include processing new agreements, updating outdated agreements, setting up an internal process for billing, implementing a proactive weed and graffiti abatement program, primary contact for public and private right-of-way inquires, research and provide information relative to claims, create a database of surplus

*Entity: CTA, CTC*

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properties and implement a program for selling or disposing of the surplus properties. The on-call consultant would continue to provide support through geographic information systems staff and two key personnel, a project manager/property manager and a property administrator, for activities such as research, field inspections, review of documents relating to transit and rail capital projects, work with assessor's office on property issues, and other activities as assigned.

After an implementation period, it is anticipated the total number of on-call consultant hours would be reduced to approximately 2,000 per year. This would result in the estimated annual cost for right-of-way management activities associated with staff time of \$530,000 including \$330,000 in consultant costs and \$200,000 in staff time.

Staff has identified the need to update over 500 outdated grants-of-use agreements that are not currently generating fee revenue. Once updated it is anticipated there will be an additional \$600,000 in annual revenue available. This revenue will continue to be used to support right-of-way management activities as well as other items such as improvements along rail right-of-way including those at the San Bernardino Santa Fe Depot as approved by the SANBAG Board. As indicated above, the update of the outdated agreements is one of the tasks that will be assigned to the new staff person.

SANBAG staff researched other regional transportation planning agencies such as Orange County Transit Authority, Riverside County Transportation Commission and Los Angeles County Metropolitan Transportation Authority and found that all have dedicated staff for railroad right-of-way management activities.

The current on-call right-of-way property management consultant contract, Contract No. C11206 with Epic Land Solutions, Inc. is set to expire on May 31, 2016. A request to authorize the release of request for proposal for further on-call right-of-way consultant services is scheduled for the November 2015 Commuter Rail and Transit Committee. Currently, under Contract No. C11206, maintenance of way services are handled through use of a sub-consultant. Staff is proposing that the maintenance activities be handled under a separate contract directly administered by SANBAG staff. Authorization to release this additional request for proposals will be presented at the November 2015 Commuter Rail and Transit Committee as well.

Lastly, administration of the Vanpool Program has been transferred to the Air Quality and Mobility Department as it is most appropriate it be administered in conjunction with the on-going Rideshare Program. The plan is to have a consultant administer the Vanpool Program instead of hiring additional SANBAG staff. The SANBAG Fiscal Year 2015/2016 Budget includes \$261,428 for staff time and \$300,000 for consultant support under Task No. 0383 Vanpool Program in Congestion Mitigation and Air Quality Funds. It is anticipated that this should provide sufficient budget to utilize a consultant to administer the Vanpool Program in Fiscal Year 2015/2016. The fund source for administration of right-of-way management activities is primarily Rail Assets Funds. Recommendation B is a request to add \$125,000 in Rail Assets Funds to Task No. 0377 Commuter Rail Operating to fund the new right-of-way management position for the remainder of the fiscal year, or approximately seven months. The average annual cost of the Management Analyst II position including overhead is estimated at \$200,000.

***Financial Impact:***

This item is not consistent with the SANBAG Fiscal Year 2015/2016 Budget.

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**Reviewed By:**

This item is not scheduled for review by any other policy committee or technical advisory committee.

**Responsible Staff:**

Carrie Schindler, Director of Transit and Rail

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Approved  
Commuter Rail & Transit Committee  
Date: October 15, 2015  
Witnessed By:

## *Minute Action*

AGENDA ITEM: 8

**Date:** *October 15, 2015*

**Subject:**

Omnitrans E Street Corridor sbX/Bus Rapid Transit Project

**Recommendation:**

That the Commuter Rail and Transit Committee recommend the Board, acting in its capacity as the San Bernardino County Transportation Authority:

A. Approve Funding Agreement No. 15-1001261 with Omnitrans for the E Street Corridor sbX/Bus Rapid Transit Project, in an amount not-to-exceed \$1,715,283 to be funded with previously allocated Measure I Valley Express Bus/Bus Rapid Transit Program Funds, including reimbursement of costs incurred January 1, 2015 and later.

B. Approve an expense budget amendment to the SANBAG Fiscal Year 2015/2016 budget to increase Task No. 0311 Transit Capital by \$1,715,283 in Measure I Valley Express Bus/Bus Rapid Transit Program Funds for a new task total of \$2,376,771.

**Background:**

In April 2009, the SANBAG Board approved Cooperative Agreement No. C09188 between San Bernardino Associated Governments (SANBAG) and Omnitrans for Design, Construction and Administration of the E Street Corridor sbX/BRT Project (Project). The Project is a 15.7 mile-long transit improvement project that connects the northern portion of the City of San Bernardino at Palm and Kendall with the City of Loma Linda at the Loma Linda University Medical Center and the Veterans Administration Hospital. The project consists mainly of three components, the E Street Corridor, the purchase of 60' articulated buses, and the modifications to the Vehicle Maintenance Facility. Although the Project is now operational, work continues with miscellaneous improvements along the corridor as well as at the Vehicle Maintenance Facility. In accordance with the original Cooperative Agreement No. C09188, SANBAG supplemented Omnitrans' overall funding plan by allocating Measure I Valley Express Bus/Bus Rapid Transit (BRT) Program Funds and various State, Federal, and local funds.

As revenue service began in April 2014, SANBAG staff believed Omnitrans was done requesting reimbursement under Contract No. C09188, which expired on December 31, 2014. However, Omnitrans continues to incur eligible costs on the sbX Project which do not exceed SANBAG's original allocation identified in Contract No. C09188. Remaining work on the Project includes the Vehicle Maintenance Facility, roadwork along the corridor, Public Address Systems for several station locations, and various other projects. The various projects include work on 10<sup>th</sup> Street through Highland Avenue, delineators, World Oil repairs, Gage Canal Covers, synchronization of the traffic signals, and miscellaneous road repairs associated with the Operational Hazards Analysis (these are ADA items, re-striping, fencing, and bollards).

*Entity: CTA*

## Commuter Rail &amp; Transit Committee Agenda Item

October 15, 2015

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Cooperative Agreement No. C09188 originally provided Omnitrans \$11,270,981 of Measure I Valley Express Bus/BRT Program Funds. However, through subsequent SANBAG and Omnitrans discussions, the Measure I Valley Express Bus/BRT Program Funds were reduced to \$5,484,406. Of that \$5,484,406, SANBAG has reimbursed Omnitrans \$3,769,123, leaving a balance of \$1,715,283. Cooperative Agreement No. 15-1001261 defines the funding roles and responsibilities between SANBAG and Omnitrans relative to the activities listed above and allows Omnitrans to seek reimbursement for \$1,715,283 of Measure I Valley Express Bus/BRT Program Funds which is well below the original amount allocated to the sbX Project. A draft of the agreement with Omnitrans is included in this agenda item, and a final Funding Agreement 15-1001261 will be provided with the November Board agenda packet.

***Financial Impact:***

This item is not consistent with the SANBAG FY 2015/2016 Budget. A budget amendment has been requested under Recommendation B.

***Reviewed By:***

This item is not scheduled for review by any other policy committee or technical advisory committee. SANBAG General Counsel and Procurement Manager have reviewed this item and the draft agreement.

***Responsible Staff:***

Nessa Williams, Transit Specialist

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Approved  
Commuter Rail & Transit Committee  
Date: October 15, 2015

Witnessed By:

**Contract Summary Sheet**

**General Contract Information**

Contract No: 15-1001261 Amendment No.: 0 Vendor No 01568  
 Vendor/Customer Name: Omnitrans Sole Source?  Yes  No  
 Description: E Street Corridor sbX Bus Rapid Transit (BRT) Project Close-out  
 Start Date: 11/04/2015 Expiration Date: 06/30/2017 Revised Expiration Date:  
 Has Contract Term Been Amended?  No  Yes - Please Explain \_\_\_\_\_  
 List Any Related Contracts Nos.: C10988

Dollar Amount			
Original Contract	\$ 1,715,283	Original Contingency	\$ -
Revised Contract (Inclusive of Prior Amendments)	\$ -	Revised Contingency (Inclusive of Prior Amendments)	\$ -
Current Amendment	\$ -	Contingency Amendment	\$ -
<b>TOTAL CONTRACT VALUE</b>	<b>\$ 1,715,283</b>	<b>TOTAL CONTINGENCY VALUE</b>	<b>\$ -</b>
		<b>TOTAL DOLLAR AUTHORITY (Contract Value and Contingency)</b>	<b>\$ 1,715,283</b>

**Contract Authorization**

Executive Director Date: \_\_\_\_\_  
 Executive Director Action: \_\_\_\_\_  
 Board of Directors Date: November 4, 2015  
 Board of Directors Action: Approve Funding Agreement No. 15-1001261 with Omnitrans

**Contract Management: Payable/Miscellaneous**

Invoice Warning: 20% Renewals: \_\_\_\_\_ Type:  Capital  PAA  Other  
 Retention: % Maximum Retention: \$ -  
 Services:  Construction  Intrgrnt/MOU/COOP  A & E Services  Other Professional Services  
 Disadvantaged Business Enterprise (DBE) Goal \_\_\_\_\_ %

**Contract Management: Receivable**

E-76 and/or CTC Date \_\_\_\_\_ (Attach Copy)  Program Supplement No.: \_\_\_\_\_  
 Finance Letter  Reversion Date: \_\_\_\_\_  EA No.: \_\_\_\_\_

**All of the above MUST be submitted to FINANCE including originals, amendments and miscellaneous transaction changes**

**Additional Information**

Project Manager: Nessa Williams

Attachment: 15-1001261 CSS [Revision 1] (1775 : Sbx Co-Op Agreement)

**COOPERATIVE AGREEMENT 15-1001261**  
**BY AND BETWEEN**  
**SAN BERNARDINO ASSOCIATED GOVERNMENTS**  
**AND**  
**OMNITRANS**  
**FOR**  
**E STREET CORRIDOR SBX**  
**BUS RAPID TRANSIT (BRT) PROJECT**  
**(sbX)**

This Funding Agreement is for funding of the E Street corridor sbX Bus Rapid Transit (BRT) Project (“sbX”) within the San Bernardino Valley; (“Agreement”) is entered into this \_\_ day of \_\_\_\_\_, 2015, by and between the San Bernardino Associated Governments, acting in its capacity as the San Bernardino County Transportation Authority (“SANBAG”), and Omnitrans, a Joint Powers Authority (“Omnitrans”). SANBAG and Omnitrans are collectively referred to herein as the “Parties”).

**RECITALS**

- A. This Agreement describes the funding responsibilities of SANBAG to Omnitrans relative to the sbX Project.
- B. SANBAG and Omnitrans previously entered into Contract No. C09188, dated April 1, 2009, which identified responsibilities of the Parties related to the sbX Project. Included in the Agreement were stipulations regarding funding that SANBAG would provide Omnitrans for the sbX Project.
- C. The prior Contract C09188 expired on December 31, 2014, however there are additional close out items necessary to complete the project. A new contract is necessary to close out all project activities, January 1, 2015 and after.
- D. Remaining work on the Project includes the Vehicle Maintenance Facility, roadwork along the corridor, Public Address Systems for the 23 stations (including 16 stops and the 4 park and ride facilities), and various smaller projects. The various projects include work on 10<sup>th</sup> Street through Highland Avenue, delineators, World Oil repairs, Gage Canal Covers, synchronization of the traffic signals, and miscellaneous road repairs associated with Operational Hazards Analysis (these are ADA items, including re-striping, fencing, and bollards, etc.).

**NOW THEREFORE**, based on the foregoing recitals, the Parties agree as follows:

1. SANBAG will reimburse Omnitrans for the remaining sbX Project activities to complete the sbX Project, in an amount not-to-exceed \$1,715,283, in accordance with the following procedures:
  - a. Omnitrans may request disbursements not more frequently than once every 30 days. For each disbursement requested, Omnitrans shall submit to SANBAG a written invoice specifying the amount requested to be disbursed, the purpose of the disbursement, and such other additional supporting documentation and background information as SANBAG may reasonably require (a “Disbursement Request”), including the following:
    - The total amount incurred and a statement of the total amount expended in each billing period.
    - A detailed breakdown of work tasks completed, if needed.
    - A detailed breakdown of labor, material, direct, and indirect costs, including backup information such as time sheets, copies of checks, and copies of receipts, as requested by SANBAG.
  - ii. Each Disbursement Request shall be accompanied by a written certification by Omnitrans that all charges being invoiced are true and accurate, and directly related to the sbX Project; that to the best of its knowledge such disbursement will not constitute any violation or provisions of Applicable Law; and that Omnitrans will use the disbursement as indicated in the Disbursement Request.
  - b. Within twenty (20) business days of the receipt of an invoice and accompanying certification, SANBAG shall notify Omnitrans as to what, if any, additional supporting documentation and background information it requires.
  - c. On or before the 10th business day after receipt of an invoice and all supporting documentation and background information, SANBAG shall disburse to Omnitrans (including through electronic transfer of funds, if so requested and if Omnitrans provides the necessary information by the date of execution of this Agreement) all of the requested funds, or that portion which it reasonably believes is due for that Disbursement Request.
2. **RESPONSIBILITIES OF OMNITRANS.** Pursuant to, and to the extent provided in this Agreement, Omnitrans agrees to the following:
  - a. Omnitrans will use the disbursements for the purpose indicated in its Disbursement Request.
  - b. Omnitrans shall be responsible for all duties relative to the completion of the sbX Project, including complying with all bidding and contract administration

requirements relative to construction of a public works project, with all due diligence and in a skillful and competent manner. Omnitrans represents and warrants to SANBAG that it and/or its Contractors has or will have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the work required to complete the sbX Project. Omnitrans further represents and warrants that it and/or its Contractors shall keep in effect all such licenses, permits, and other approvals during the term of this Agreement.

- c. Provide to SANBAG all information that is reasonably needed for the sbX Project.
- d. Notify SANBAG in writing of any changes, or potential budgetary changes, in the scope of work or description of the sbX Project.
- e. Omnitrans is the owner and operator of the sbX Project and is responsible for Operations and Maintenance of the project.
- f. Omnitrans shall require that any contractor providing services with respect to the sbX Project obtain and maintain insurance of the type and in the amounts that SANBAG would require of its contractors performing similar services on a sbX Project similar to the improvements for the longer period of: 1) the duration of this Agreement or 2) for the duration of such contractor's involvement in the sbX Project. All insurance policies shall name SANBAG and its directors, officers, employees and volunteers as additional named insured. Further, Omnitrans will require that any contractors provide bid and performance bonds as are required by applicable Federal, State or local law.
- g. Omnitrans shall be responsible to compensate SANBAG for any damage or loss which SANBAG suffers by virtue of Omnitrans' breach of any term of this Agreement, including without limit any and all damages, loss, claims, etc. (including without limit reasonable attorney's fees for any action or fine of the FTA) arising from such breach. Omnitrans hereby indemnifies, defends and holds harmless SANBAG and its affiliated entities, officers, directors, employees, contractors, and agents from any and all costs, expenses and liabilities arising out of the design, construction, maintenance and/or operation of the sbX Project.

### 3. **MUTUAL OBLIGATIONS.**

- a. **Term.** This Agreement shall terminate upon the completion of the sbX Project or at which point funds set up in this agreement have been exhausted.
- b. **Force Majeure.** Omnitrans shall not be in default under this Contract in the event that the Work performed by Omnitrans is temporarily interrupted or discontinued for any of the following reasons: riots, wars, sabotage, acts of

terrorism, civil disturbances, insurrection, explosion, pandemics, quarantines, acts of God, acts of government or governmental restraint, and natural disasters such as floods, earthquakes, landslides, and fires, or other catastrophic events which are beyond the reasonable control of Omnitrans and which Omnitrans could not reasonably be expected to have prevented or controlled. "Other catastrophic events" does not include the financial inability of Omnitrans to perform or failure of Omnitrans to obtain either any necessary permits or licenses from other governmental agencies or the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of Omnitrans.

- c. **Headings.** All paragraph headings throughout this Agreement are for convenience of reference only.
- d. **Additional Documents.** Each of the Parties shall execute such additional documents as the other Party may reasonably request in order to carry out or implement any of the provisions of this Agreement, which request shall not be unreasonably refused.
- e. **Litigation Expenses.** If after this Agreement is in effect, any action or proceeding of any nature shall be commenced seeking to enforce, construe or rescind, or otherwise relating to this Agreement, each party shall bear its own costs and expenses of litigation including its own attorney's fees, expert witness fees and other related expenses and costs.
- f. **Entire Agreement.** This Agreement constitutes the sole and entire Agreement between the parties hereto, and no modification, alteration or amendment shall be binding unless expressed in writing signed by the Parties. No representation, warranty, covenant, inducement or obligation not included in this Agreement shall be binding, and this Agreement supersedes all prior negotiations, agreements, arrangements and undertakings among the Parties hereto with respect to the matters set forth in this Agreement.
- g. **Accuracy of Representations.** As of the date each signed this Agreement, the representations herein of both Parties are true and correct in all material respects.
- h. **Originals and Copies.** This Agreement with the Exhibits attached hereto may be executed in counterparts, each of which shall be deemed an original. In any action or proceeding, an exact and correct copy may be used in lieu of an original.
- i. **Entire Agreement.** Each Party represents to the other that the person executing this Agreement its behalf has the Authority to do so. Any changes to this Agreement must be in writing and mutually agreed to by both Parties.

j. **Executive Authority.** CEO/General Manager of Omnitrans, or his/her designee, shall exercise the rights of Omnitrans under this Agreement including, without limit, accepting the certifications of SANBAG required under the terms of this Agreement. The Executive Director of SANBAG, or his/her designee, shall exercise the rights of SANBAG under this Agreement; however, any certifications of SANBAG required under the terms of this Agreement shall be provided only by the Executive Director or such other representative of SANBAG as is specified by action of the SANBAG's governing body.

k. **Construction of Agreement.**

i. **Equal Construction.** This Agreement and the Exhibits attached hereto shall not be construed in favor of or against a Party by reason of participation or lack of participation of that Party or its counsel in the drafting of this Agreement and the Exhibits attached hereto. This Agreement and the attached Exhibits shall be interpreted and construed as drafted by all Parties with equal participation in the drafting hereof.

ii. **Internal Consistency.** The Parties intend that the terms of this Agreement and of the Exhibits are all internally consistent with each other and should be construed to that end. If any irreconcilable inconsistency shall be determined between the terms of this Agreement and the terms of any of the Exhibits attached hereto, the terms of this Agreement shall control over the terms of any of the Exhibits.

l. **Notices.** All notices hereunder shall be in writing and shall be effective upon receipt. All notices and communications, including invoices, between the Parties to this Agreement shall be either personally delivered, sent by first-class mail, return receipt requested, or sent by overnight express delivery service, postage or other charges fully prepaid, as follows:

OMNITRANS:

Omnitrans  
1700 West Fifth Street  
San Bernardino, CA 92411

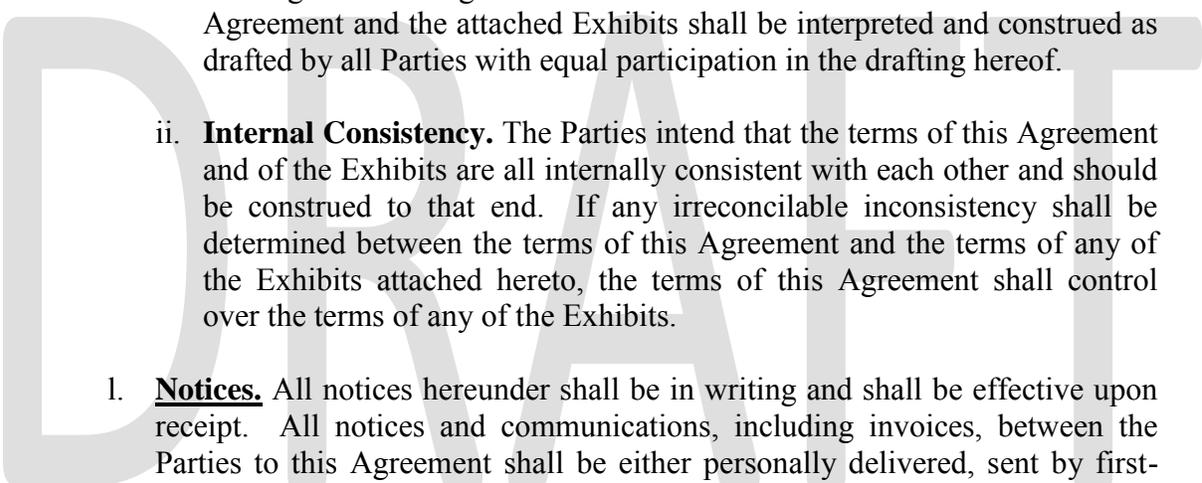
**Attention:** Donald Walker

SANBAG:

SANBAG  
1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor  
San Bernardino, CA 92410

**Attention:** Carrie Schindler

l. **No Third Party Beneficiaries.** There are no third party beneficiaries to this Agreement. Other than the Parties, no person, entity, political subdivision, agency, board, department, division or commission shall be entitled to bring an administrative or judicial proceeding to enforce or interpret its terms.



Attachment: 15-1001261 [Revision 2] (1775 : Sbx Co-Op Agreement)

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the day and year first written above.

OMNITRANS

SANBAG

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

By: \_\_\_\_\_  
Ryan McEachron  
President, Board of Directors

Date: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM:

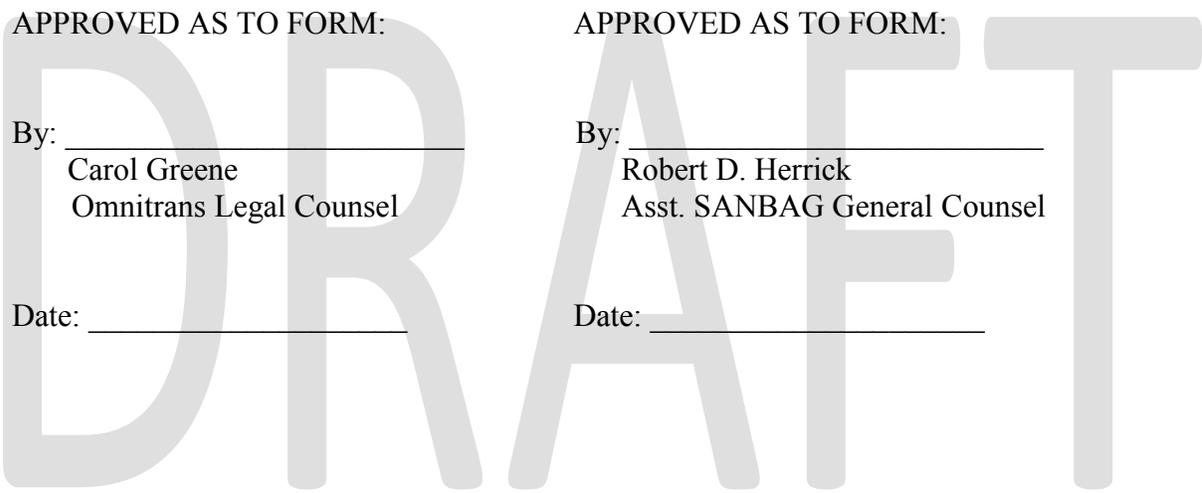
APPROVED AS TO FORM:

By: \_\_\_\_\_  
Carol Greene  
Omnitrans Legal Counsel

By: \_\_\_\_\_  
Robert D. Herrick  
Asst. SANBAG General Counsel

Date: \_\_\_\_\_

Date: \_\_\_\_\_



Attachment: 15-1001261 [Revision 2] (1775 : Sbx Co-Op Agreement)

## *Minute Action*

AGENDA ITEM: 9

**Date:** *October 15, 2015*

**Subject:**

Sub-recipient Funding Agreement with Omnitrans for the SANBAG County-Wide Vanpool Program

**Recommendation:**

That the Commuter Rail and Transit Committee recommend the Board, acting as the San Bernardino County Transportation Commission:

- A. Approve Contract 15-1001265 with Omnitrans to define roles and responsibilities as a sub-recipient to Omnitrans for Federal Congestion Mitigation and Air Quality (FTA) 5307 - CMAQ funds for the SANBAG County-Wide Vanpool Program;
- B. Approve changing the County-Wide Vanpool Program from the Transit and Passenger Rail Program to Commuter and Motorist Assistance Program.

**Background:**

In November 2014 the San Bernardino Associated Governments (SANBAG) Board approved the development and implementation of a SANBAG County-Wide Vanpool Program (Program). The SANBAG Program will mirror many other County Transportation Commission's (CTC) programs in which up to \$400 a month is provided directly to the vanpool leasing company to reduce the vanpool lease costs. In return the vanpool users follow agency guidelines and provide monthly reporting. The Program is unique in that it has the ability to generate additional Federal Transit Administration (FTA) Section 5307 revenue for SANBAG. The additional revenue is generated based on vehicle miles traveled being reported to the FTA; which by formula increases the amount of Section 5307 being designated for a specific area. It is anticipated that by the third year of implementation, the Section 5307 funding generated will be more than sufficient to sustain the Program on an on-going basis.

As part of the Board approval for the program, \$4,000,000 of Federal Congestion Mitigation Air Quality (CMAQ) funds were allocated to the Program which will flow through FTA. As SANBAG is not an eligible direct recipient of FTA funds we must become a sub-recipient to an agency designated as a FTA direct recipient. In San Bernardino County there are three direct recipients SANBAG could partner with: Omnitrans, Victor Valley Transit Authority, and Metrolink. SANBAG staff is recommending a partnership with Omnitrans as SANBAG and Omnitrans have a history of working together in a sub-recipient partnership.

Contract 15-1001265 describes the respective responsibilities of SANBAG and Omnitrans relative to acquiring authorization to use CMAQ funds for development of the Program. SANBAG will use the CMAQ funding to develop the Program in the Valley Region and Mountain/Desert Region where there are significant work-related transportation needs and vanpools provide a cost effective and reliable commute option that improves access to jobs and

*Entity: CTC*

## Commuter Rail &amp; Transit Committee Agenda Item

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improves mobility. Anticipated program development activities include the actual vanpool subsidy up to \$400 per vanpool, procurement and development of an online system to track the required FTA reporting data, staff for management of the program, consultant support, and marketing activities. In addition, the CMAQ funding will fund Omnitrans' actual costs associated with administering the FTA grant for the Program, including sub-recipient monitoring.

At the October 2015 SANAG Board, Contract 15-001289 was approved as part of an overarching MOU developed between SANBAG and Omnitrans defining the general sub-recipient partnering relationship. Contract 15-1001265 is consistent with the intent of Contract 15-001289 and provides the funding details specific to the SANBAG Vanpool Program.

Additionally it has been determined that the County-Wide Vanpool program should be transferred from the Transit and Rail Program to the Commuter and Motorist Assistance Program. This means the Department of Transit and Rail will no longer be managing the Vanpool program and the department of Air Quality and Mobility Programs will take the lead. This would allow Vanpool to fall in line with other ridesharing activities being managed in the department.

**Financial Impact:**

This item is consistent with the SANBAG Fiscal Year 2015/2016 Budget. Agreement 15-1001265 will track the administrative expenses and an internal contract 16-1001349 will track the receivable funds.

**Reviewed By:**

This item is not scheduled for review by any other policy committee or technical advisory committee. SANBAG General Counsel and Procurement Manager have reviewed this item and the draft contract.

**Responsible Staff:**

Monica Morales, Transit Analyst

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Approved  
Commuter Rail & Transit Committee  
Date: October 15, 2015

Witnessed By:

**Payable Contract Summary Sheet**

**General Contract Information**

Contract No: 15-1001265 (A/P) Amendment No.: \_\_\_\_\_ Vendor No.: 01568  
 Vendor/Customer Name: Omnitrans Sole Source?  Yes  No  
 Description: Sub-recipient Funding Agreement for the SANBAG County-wide Vanpool program  
 Start Date: 11/04/2015 Expiration Date: 09/02/2020 Revised Expiration Date: \_\_\_\_\_  
 Has Contract Term Been Amended?  No  Yes - Please Explain \_\_\_\_\_  
 List Any Related Contracts Nos.: 16-1001349 (A/R)

Dollar Amount			
Original Contract	\$ 160,000.00	Original Contingency	\$ -
Revised Contract (Inclusive of Prior Amendments)	\$ -	Revised Contingency (Inclusive of Prior Amendments)	\$ -
Current Amendment	\$ -	Contingency Amendment	\$ -
<b>TOTAL CONTRACT VALUE</b>	<b>\$ 160,000.00</b>	<b>TOTAL CONTINGENCY VALUE</b>	<b>\$ -</b>
		<b>TOTAL DOLLAR AUTHORITY (Contract Value and Contingency)</b>	<b>\$ 160,000.00</b>

**Contract Authorization**

Executive Director Date: \_\_\_\_\_  
 Executive Director Action: \_\_\_\_\_  
 Board of Directors Date: 11/04/2015  
 Board of Directors Action: Approve Agreement 15-1001265 with Omnitrans

**Contract Management: Payable/Miscellaneous**

Invoice Warning: 20% Renewals: \_\_\_\_\_ Type:  Capital  PAA  Other  
 Retention: \_\_\_\_\_ % Maximum Retention: \$ \_\_\_\_\_  
 Services:  Construction  Intrgrnt/MOU/COOP  A & E Services  Other Professional Services  
 Disadvantaged Business Enterprise (DBE) Goal \_\_\_\_\_ %

**Contract Management: Receivable**

E-76 and/or CTC Date \_\_\_\_\_ (Attach Copy)  Program Supplement No.: \_\_\_\_\_  
 Finance Letter  Reversion Date: \_\_\_\_\_  EA No.: \_\_\_\_\_

**All of the above MUST be submitted to FINANCE including originals, amendments and miscellaneous transaction changes**

**Additional Information**

Project Manager: Nicole Soto \$160,000 is an estimated amount. Charged based on actuals

Attachment: 15-1001265 AP CSS [Revision 2] (1673 : Omnitrans Funding Agreement Vanpool)

**Receivable Contract Summary Sheet**

**General Contract Information**

Contract No: 16-1001349 (A/R) Amendment No.: \_\_\_\_\_ Vendor No.: 01568  
 Vendor/Customer Name: Omnitrans Sole Source?  Yes  No  
 Description: Sub-recipient Funding Agreement for the SANBAG County-wide Vanpool program  
 Start Date: 11/04/2015 Expiration Date: 09/02/2020 Revised Expiration Date: \_\_\_\_\_  
 Has Contract Term Been Amended?  No  Yes - Please Explain \_\_\_\_\_  
 List Any Related Contracts Nos.: 15-1001265 (A/P)

Dollar Amount			
Original Contract	\$ 4,000,000.00	Original Contingency	\$ -
Revised Contract (Inclusive of Prior Amendments)	\$ -	Revised Contingency (Inclusive of Prior Amendments)	\$ -
Current Amendment	\$ -	Contingency Amendment	\$ -
<b>TOTAL CONTRACT VALUE</b>	<b>\$ 4,000,000.00</b>	<b>TOTAL CONTINGENCY VALUE</b>	<b>\$ -</b>
		<b>TOTAL DOLLAR AUTHORITY (Contract Value and Contingency)</b>	<b>\$ 4,000,000.00</b>

**Contract Authorization**

Executive Director Date: \_\_\_\_\_  
 Executive Director Action: \_\_\_\_\_  
 Board of Directors Date: 11/04/2015  
 Board of Directors Action: Approve Agreement 15-1001265 with Omnitrans

**Contract Management: Payable/Miscellaneous**

Invoice Warning: 20% Renewals: \_\_\_\_\_ Type:  Capital  PAA  Other  
 Retention: \_\_\_\_\_ % Maximum Retention: \$ \_\_\_\_\_  
 Services:  Construction  Intrgrnt/MOU/COOP  A & E Services  Other Professional Services  
 Disadvantaged Business Enterprise (DBE) Goal \_\_\_\_\_ %

**Contract Management: Receivable**

E-76 and/or CTC Date \_\_\_\_\_ (Attach Copy)  Program Supplement No.: \_\_\_\_\_  
 Finance Letter  Reversion Date: \_\_\_\_\_  EA No.: \_\_\_\_\_

**All of the above MUST be submitted to FINANCE including originals, amendments and miscellaneous transaction changes**

**Additional Information**

Project Manager: Nicole Soto Omnitrans board has approved the contract.

Attachment: 16-1001349 AR CSS [Revision 2] (1673 : Omnitrans Funding Agreement Vanpool)

**CONTRACT NUMBER 15-1001265****SAN BERNARDINO ASSOCIATED GOVERNMENTS****and****OMNITRANS****FUNDING AGREEMENT****FOR COUNTY WIDE VANPOOL PROGRAM**

This Funding Agreement for the County wide Vanpool Program is entered into this \_\_\_ day of \_\_\_\_\_, 2015, by and between the San Bernardino Associated Governments, acting in its capacity as the San Bernardino County Commission, (“SANBAG”), and Omnitrans, a Joint Powers Authority (“Omnitrans”) (SANBAG and Omnitrans are collectively referred to herein as the “Parties”).

**Recitals**

A. This Agreement describes the respective responsibilities of SANBAG and Omnitrans relative to acquiring authorization to use Federal Congestion Mitigation and Air Quality (“CMAQ”) Funding for development of SANBAG’s County wide Vanpool Program (“Program”).

B. SANBAG will use the CMAQ funding to support capital and operating aspects for development of a new Countywide Vanpool Program that is expected to operate in the Valley Region and Mountain/Desert Region where there are significant work-related transportation needs and where vanpools can provide a cost effective and reliable commute option that improves access to jobs and improves the mobility of San Bernardino County’s communities.

C. The CMAQ funding is currently Federal Highway Administration (“FHWA”) funding that in accordance with the Federal Moving Ahead for Progress in the 21<sup>st</sup>

Century Act (“MAP-21”) may be transferred to the Federal Transit Administration (“FTA”) for transit purposes.

D. SANBAG is not eligible to process a grant application, or authorization of Federal funds, through FTA and will partner with Omnitrans who is eligible to submit a grant application for Federal funds through FTA.

E. In this case, when the CMAQ funds are transferred from FHWA to FTA they will be transferred into the Urbanized Area Formula Program (§5307).

F. Omnitrans, as the FTA Grantee, pursuant to the terms of this Agreement, will submit a §5307 grant application to the FTA for Fiscal Year 2016 with respect to obtaining funding for the PROGRAM. The grant application is, among other things, for the benefit of SANBAG, as a Subgrantee.

G. SANBAG will be considered the Subgrantee for purposes of the grant agreement, and is responsible for complying with all provisions of the grants and of applicable federal, state and local laws and regulations (“Applicable Law”) necessary in order to qualify for the funding for, and to undertake the PROGRAM.

H. Omnitrans will use the funds received from the Grant Application for the PROGRAM in accordance with the terms hereof.

NOW THEREFORE, based on the forgoing recitals and the following promises and covenants the parties agree:

1. **Obligations of Omnitrans.** Pursuant to, and to the extent provided in, this Agreement, Omnitrans shall take the following actions:

a. Omnitrans, as the FTA Grantee, will include SANBAG’s request for \$4,000,000 of CMAQ funding in Omnitrans’ Fiscal Year 2016 FHWA fund transfer

request to Caltrans and subsequently in Omnitrans' Fiscal Year 2016 §5307 grant application to the FTA with respect to obtaining funding for the PROGRAM. A portion of the §5307 grant application will be for the benefit of SANBAG, as a Subgrantee.

b. Omnitrans will identify the use of toll credits on the fund transfer request to Caltrans and subsequently in Omnitrans' Fiscal Year 2016 §5307 grant application to the FTA as SANBAG is utilizing toll credits in lieu of the required 11.47% local match obligation, \$458,800, in accordance with MAP-21 Section 1580 as established under Section 120(i) of the Title 23 of the United States Code (USC) which authorizes the use of certain toll revenue expenditures as a credit toward the non-federal matching share for transit programs authorized by Chapter 53 of Title 49 of the USC.

c. Omnitrans will sign the grant documents resulting from the foregoing grant application submittal, upon the receipt of such assurances from SANBAG as Omnitrans may reasonably require.

d. Omnitrans will reimburse SANBAG for the PROGRAM up to the amount available from any grant received for the PROGRAM, in conformity with the following procedure:

1. For each Disbursement requested, SANBAG shall provide a written invoice to Omnitrans specifying the amount requested to be disbursed, the purpose of the Disbursement and such additional supporting documentation and background information as Omnitrans may reasonably require (a "Disbursement Request").

2. Each Disbursement Request shall be accompanied by a written certification of SANBAG's Chief Financial Officer that such Disbursement will not constitute any violation of the terms of the grant, or of Applicable Law, and that SANBAG will use the Disbursement for the purpose indicated in the Disbursement Request.

3. Within five (5) business days of the receipt of an invoice and accompanying certification, Omnitrans shall notify SANBAG as to what, if any, additional supporting documentation and background information it requires.

4. First week of the following month, after invoice submittal, OMNITRANS shall: (i) disburse (including through electronic transfer of funds, if so requested and if SANBAG has provided the necessary information) all or that portion of the requested funds which it reasonably believes it can disburse without violating the terms of either the grant or of Applicable Law; and (ii) if applicable, notify SANBAG as to why it reasonably believes that it is unable to disburse some or all of the requested funds without violating the terms of either the grant or of Applicable Law.

5. To the extent that the FTA advises Omnitrans that a Disbursement would constitute a violation of the terms of either the grant or of Applicable Law, Omnitrans shall have no obligation to disburse such funds. If Omnitrans has any question as to whether any disbursement will be in violation of any provision of either the grant or of Applicable Law, notwithstanding SANBAG's certification, it shall be entitled to receive at SANBAG's expense, a legal opinion from competent counsel of its choice to resolve any such question.

6. Omnitrans shall have no liability to SANBAG for any refusal to disburse funds so long as Omnitrans has a good faith and reasonable belief that such Disbursement would constitute a violation of the terms of the grant or of Applicable Law. Omnitrans, upon receipt of a legal opinion upon which Omnitrans can reasonably rely supporting the disbursement, shall release the requested funds within five (5) days.

e. Omnitrans shall prepare and submit to the FTA on a timely basis all required periodic reports and milestone updates, so long as it timely receives all necessary information from SANBAG.

f. Omnitrans shall conduct itself so that any aspect of Omnitrans' participation in this Agreement and the actions required of it hereunder, will be in compliance with the terms of the grant which is being sought and with all Applicable Law.

g. Omnitrans shall comply with all requirements of the FTA 2016 Master Agreement, including submission to FTA on a quarterly basis, of reports that document the status of the PROGRAM'S implementation progress, including task completion status, budget status, and adherence to PROGRAM. The current FTA 2015 Master Agreement can be found at <http://www.fta.dot.gov/documents/21-Master.pdf> for reference. The FTA 2016 Master Agreement is expected to be published in October 2015.

2. **Payment of Administrative Expenses of Omnitrans.** As compensation for the obligations undertaken by Omnitrans pursuant to the terms of this Agreement, an indirect overhead charge will be charged to SANBAG to account for all administration costs associated with managing this PROGRAM. Omnitrans will charge based on actual time and material that is needed for management of this PROGRAM. If due to extraordinary circumstances it becomes evident to Omnitrans that it will exceed its estimated expenses, SANBAG will be immediately notified and both parties shall meet and negotiate in good faith to arrive at an agreed adjustment to Omnitrans' compensation.

3. **Warranties of SANBAG.** SANBAG warrants to Omnitrans that:

a. To SANBAG's knowledge, the submittal of the contemplated FTA §5307 grant applications by Omnitrans on behalf of SANBAG will not constitute any violation of Applicable Law.

b. SANBAG shall conduct itself so that all aspects of the PROGRAM, and any aspect of SANBAG's participation in this Agreement and the actions contemplated of it by this Agreement, will be in compliance with the terms of the grant and with Applicable Law, including laws or regulations related to planning studies.

c. SANBAG will use the disbursements for the purpose indicated in its Disbursement Request.

d. SANBAG shall comply with all requirements of the FTA 2016 Master Agreement, including submission to OMNITRANS on a quarterly basis, of reports that document the status of the PROGRAM'S implementation progress, including task completion status, budget status, and adherence to PROGRAM.

e. SANBAG shall agree to comply with 49 U.S.C. § 5323(j) and FTA regulations, "Buy America Requirements," 49 C.F.R. Part 661, and any amendments thereto.

**4. Obligations of SANBAG.** Pursuant to, and to the extent provided in, this Agreement, SANBAG shall take the following actions:

a. Provide to Omnitrans all information that is reasonably needed for the §5307 grant application submission to FTA and the CMAQ fund transfer request that must be submitted to Caltrans prior to submission of the FTA grant application.

b. Satisfy its Match Obligation through the use of toll credits.

c. Identify the PROGRAM and use of toll credits as the local match obligation in the Federal Transportation Improvement Program.

d. Notify the California Department of Transportation (Caltrans) Division of Mass Transit and Rail of the use of Toll Credits for the PROGRAM.

e. Notify Omnitrans of any changes in the scope or description of the PROGRAM.

f. Maintain and upkeep all portions of the completed PROGRAM per FTA requirements.

g. Certify to Omnitrans for each Disbursement Request, that to the best of its knowledge such Disbursement will not constitute any violation of either the provisions of the grant or of Applicable Law and that SANBAG will use the Disbursement as indicated in the Disbursement Request.

h. Provide to Omnitrans all information needed for quarterly PROGRAM reporting and milestone updates in a timely manner to allow Omnitrans enough time to prepare and submit to the FTA on a timely basis all required or requested FTA reports and updates, but in no event to be received later than fifteen (15) days prior to the required date of submission to the FTA of such report or update.

i. Ensure that all aspects of the PROGRAM and any aspect of SANBAG's participation in this Agreement and the actions contemplated of it by this Agreement will be in compliance with the terms of the grant which is being sought and with all Applicable Law.

j. Invoice OMNITRANS on a quarterly basis for reimbursement on PROGRAM expenditures and costs.

**5. Exercise of Rights under the Agreement.** The CEO/General Manager of Omnitrans, or his designee, shall exercise the rights of Omnitrans under this Agreement including, without limit, accepting the certifications of SANBAG required under the terms of this Agreement. The Executive Director, or her/his designee, shall exercise the rights of SANBAG under this Agreement; however, any certifications of SANBAG required under the terms of this Agreement shall be provided only by the Executive

Director, or her/his designee or such other representative of SANBAG as is specified by action of the SANBAG's governing body.

**6. Insurance and bonding requirements.** SANBAG shall require that any contractor providing services with respect to the PROGRAM obtain and maintain insurance of the type and in the amounts that Omnitrans would require of its contractors performing similar services on a PROGRAM similar to the improvements for the longer period of: 1) the duration of this Agreement or 2) for the duration of such contractor's involvement in the PROGRAM. All insurance policies shall name Omnitrans and its directors, officers, employees and volunteers as additional named insured. Further, SANBAG will require that any contractors provide bid and performance bonds as are required by applicable Federal, State or local law.

**7. Indemnification by Omnitrans.** For purposes of this paragraph 7 only, "SANBAG" shall be deemed to include the San Bernardino Associated Governments, the San Bernardino County Transportation Commission, the San Bernardino County Transportation Authority, the San Bernardino County Service Authority for Freeway Emergencies, and the San Bernardino County Congestion Management Agency. Omnitrans shall indemnify, defend and hold SANBAG, and its officers, directors, members, employees, agents and contractors harmless from any damage, loss, cost or expense (including reasonable attorney's fees) which arises by virtue of Omnitrans' breach of any term of this Agreement, including any and all damages, loss, claims, actions or liabilities and/or any fine by the FTA or other agency arising from such breach.

**8. Indemnification by SANBAG.** SANBAG shall indemnify, defend and hold Omnitrans, and its officers, directors, members, employees, agents and contractors harmless from any damage, loss, cost or expense (including reasonable attorneys' fees) which arises by virtue of SANBAG's breach of any term of this Agreement, including any and all damages, loss, claims, actions or liabilities and/or any fine by the FTA or other agency arising from such breach.

**9. Term.** This Agreement shall terminate upon the rejection of any grant application for the PROGRAM by the FTA or, assuming the award of the grant sought, upon the completion of the disbursement of the funds obtained from the grant and the completion of all reports, updates or any other documentation or responsibility of Omnitrans related to the grant. In all events, this Agreement shall terminate within the time limits set forth in applicable FTA procedures and regulations but in no event later than four (4) years from the date of the last grant received by Omnitrans.

**10. Force Majeure.**

a. An "Uncontrollable Force" (force majeure) is any occurrence beyond the control of a Party which causes that Party to be unable to perform its obligations hereunder and which a Party has been unable to overcome by the exercise of due diligence, including but not limited to, flood, drought, earthquake, storm, fire, pestilence, lightning and other natural catastrophes, epidemic, war, riot, civil disturbance or disobedience, strike, labor dispute, action or inaction of legislative bodies, judicial bodies, or regulatory agencies, or other proper authority, excepting the governing body of the Party asserting the Uncontrollable Force, which may conflict with the terms of this Agreement.

b. Subject to Section 9(a), neither Party shall be considered to be in default in the performance of any of the agreements contained in this Agreement when and to the extent failure of performance shall be caused by an Uncontrollable Force.

c. If either Party because of an Uncontrollable Force is rendered wholly or partly unable to perform its obligations under this Agreement, the Party shall be excused from whatever performance is affected by the Uncontrollable Force to the extent so affected provided that: (i) the nonperforming Party within one week after the occurrence of the Uncontrollable Force, gives the other Party written notice describing the particulars of the occurrence; (ii) the suspension of performance is of no greater scope and of no longer duration than is required by the Uncontrollable Force; (iii) the nonperforming Party uses its best efforts to remedy its inability to perform (this

subsection shall not require the settlement of any strike, walkout, lockout, other labor disputes or any other dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to its interest, it being understood and agreed that the settlement of any disputes shall be at the sole discretion of the Party having the difficulty); and (iv) when the nonperforming Party is able to resume performance of its obligations under this Agreement, that Party shall give the other Party written notice to that effect.

d. If either Party's ability to perform cannot be corrected when the Uncontrollable Force is caused by the actions or inactions of legislative bodies, judicial bodies, or regulatory agencies or other proper authority, the Parties agree to meet in good faith to determine if this Agreement may be amended to comply with the legal or regulatory change which caused the nonperformance if the Parties.

**11. Authorization by Omnitrans.** Omnitrans represents that the terms and execution of this Agreement, including all Exhibits, have been duly authorized by Omnitrans' governing Board and that the persons signing this Agreement on its behalf have the necessary authority to do so.

**12. Authorization by SANBAG.** SANBAG represents that the terms and execution of this Agreement, including all Exhibits, have been duly authorized by SANBAG's governing body and that the persons signing this Agreement on its behalf have the necessary authority to do so.

**13. Headings.** All paragraph headings throughout this Agreement are for convenience of reference only.

**14. Additional Documents.** Each of the Parties shall execute such additional documents as the other Party may reasonably request in order to carry out or implement any of the provisions of this Agreement, which request shall not be unreasonably refused.

**15. Litigation Expenses.** If after this Agreement is in effect, any action or proceeding of any nature shall be commenced seeking to enforce, construe or rescind, or otherwise relating to this Agreement, each party will bear their own attorney fees.

**16. Entire Agreement.** This Agreement constitutes the sole and entire agreement between the parties hereto, and no modification, alteration or amendment shall be binding unless expressed in writing signed by the Parties. No representation, warranty, covenant, inducement or obligation not included in this Agreement shall be binding, and this Agreement supersedes all prior negotiations, agreements, arrangements and undertakings among the Parties hereto with respect to the matters set forth in this Agreement. It is the intent of the Parties that this Agreement is an integrated agreement and that no evidence may be introduced to vary in any manner its terms and conditions.

**17. Accuracy of Representations.** As of the date each signed this Agreement, the representations herein of both Parties are true and correct in all material respects.

**18. Originals and Copies.** This Agreement with the Exhibits attached hereto may be executed in counterparts, each of which shall be deemed an original. In any action or proceeding, an exact and correct copy may be used in lieu of an original.

**19. Construction of Agreement.**

a. **Equal Construction.** This Agreement and the Exhibits attached hereto shall not be construed in favor of or against a Party by reason of participation or lack of participation of that Party or its counsel in the drafting of this Agreement and the Exhibits attached hereto. This Agreement and the attached Exhibits shall be interpreted and construed as drafted by all Parties with equal participation in the drafting hereof.

b. **Internal Consistency.** The Parties intend that the terms of this Agreement and of the Exhibits are all internally consistent with each other and should be construed to that end. If any irreconcilable inconsistency shall be determined between

the terms of this Agreement and the terms of any of the Exhibits attached hereto, the terms of this Agreement shall control over the terms of any of the Exhibits.

**20. Notices.** All notices hereunder shall be in writing and shall be effective upon receipt. All notices and communications, including invoices, between the Parties to this Agreement shall be either personally delivered, sent by first-class mail, return receipt requested, or sent by overnight express delivery service, postage or other charges fully prepaid, as follows:

To Omnitrans:

Omnitrans  
1700 West Fifth Street  
San Bernardino, CA 92411

**Attention:** Maurice Mansion

SANBAG

SANBAG  
1170 West 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor  
San Bernardino, California 92410

**Attention:** Monica Morales

**21. No Third Party Beneficiaries.** There are no third party beneficiaries to this Agreement. Other than the Parties, no person, political subdivision, agency, board, department, division or commission shall be entitled to bring an administrative or judicial proceeding to enforce or interpret its terms.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the day and year first written above.

OMNITRANS

SANBAG

By: \_\_\_\_\_

P. Scott Graham, CEO/General Manager

Date: \_\_\_\_\_

By: \_\_\_\_\_

Ray Wolfe, Executive Director

Date: \_\_\_\_\_

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: \_\_\_\_\_

Legal Counsel for Omnitrans

Date: \_\_\_\_\_

By: \_\_\_\_\_

Legal Counsel for SANBAG

Date: \_\_\_\_\_

Attachment: 15-1001265 FINAL (1673 : Omnitrans Funding Agreement Vanpool)

## COMMUTER RAIL AND TRANSIT POLICY COMMITTEE ATTENDANCE RECORD – 2015

Name	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
<b>Paul Eaton</b> City of Montclair	X	X	X	X	X	X		X	X			
<b>James Ramos</b> County of San Bernardino	X	X	X	X	X	X		X	X			
<b>Jon Harrison</b> City of Redlands	X	X	X	X*	X	X		X	X			
<b>Bill Jahn</b> City of Big Bear Lake	X	X	X	X	X	X		X	X			
<b>Mike Leonard</b> City of Hesperia	X	X	X									
<b>Larry McCallon</b> City of Highland	X			X				X	X			
<b>L. Dennis Michael</b> City of Rancho Cucamonga	X		X	X	X				X			
<b>Ray Musser</b> City of Upland		X	X	X	X	X		X				
<b>Richard Riddell</b> City of Yucaipa	X	X	X	X	X	X		X	X			
<b>Alan Wapner</b> City of Ontario		X	X	X	X			X	X			
<b>Deborah Robertson</b> City of Rialto	X	X		X	X	X		X	X			

X = Member attended meeting.

\* = Alternate member attended meeting

Empty box = Member did not attend meeting.

Crossed out box = Not a member at the time.

*San Bernardino Associated Governments (SANBAG) is a council of governments formed in 1973 by joint powers agreement of the cities and the County of San Bernardino. SANBAG is governed by a Board of Directors consisting of a mayor or designated council member from each of the twenty-four cities in San Bernardino County and the five members of the San Bernardino County Board of Supervisors.*

*In addition to SANBAG, the composition of the SANBAG Board of Directors also serves as the governing board for several separate legal entities listed below:*

***The San Bernardino County Transportation Commission**, which is responsible for short and long range transportation planning within San Bernardino County, including coordination and approval of all public mass transit service, approval of all capital development projects for public transit and highway projects, and determination of staging and scheduling of construction relative to all transportation improvement projects in the Transportation Improvement Program.*

***The San Bernardino County Transportation Authority**, which is responsible for administration of the voter-approved half-cent transportation transactions and use tax levied in the County of San Bernardino.*

***The Service Authority for Freeway Emergencies**, which is responsible for the administration and operation of a motorist aid system of call boxes on State freeways and highways within San Bernardino County.*

***The Congestion Management Agency**, which analyzes the performance level of the regional transportation system in a manner which ensures consideration of the impacts from new development and promotes air quality through implementation of strategies in the adopted air quality plans.*

*As a **Subregional Planning Agency**, SANBAG represents the San Bernardino County subregion and assists the Southern California Association of Governments in carrying out its functions as the metropolitan planning organization. SANBAG performs studies and develops consensus relative to regional growth forecasts, regional transportation plans, and mobile source components of the air quality plans.*

*Items which appear on the monthly Board of Directors agenda are subjects of one or more of the listed legal authorities. For ease of understanding and timeliness, the agenda items for all of these entities are consolidated on one agenda. Documents contained in the agenda package are clearly marked with the appropriate legal entity.*

This list provides information on acronyms commonly used by transportation planning professionals. This information is provided in an effort to assist SANBAG Board Members and partners as they participate in deliberations at SANBAG Board meetings. While a complete list of all acronyms which may arise at any given time is not possible, this list attempts to provide the most commonly-used terms. SANBAG staff makes every effort to minimize use of acronyms to ensure good communication and understanding of complex transportation processes.

AB	Assembly Bill
ACE	Alameda Corridor East
ACT	Association for Commuter Transportation
ADA	Americans with Disabilities Act
ADT	Average Daily Traffic
APTA	American Public Transportation Association
AQMP	Air Quality Management Plan
ARRA	American Recovery and Reinvestment Act
ATMIS	Advanced Transportation Management Information Systems
BAT	Barstow Area Transit
CALACT	California Association for Coordination Transportation
CALCOG	California Association of Councils of Governments
CALSAFE	California Committee for Service Authorities for Freeway Emergencies
CARB	California Air Resources Board
CEQA	California Environmental Quality Act
CMAQ	Congestion Mitigation and Air Quality
CMIA	Corridor Mobility Improvement Account
CMP	Congestion Management Program
CNG	Compressed Natural Gas
COG	Council of Governments
CPUC	California Public Utilities Commission
CSAC	California State Association of Counties
CTA	California Transit Association
CTC	California Transportation Commission
CTC	County Transportation Commission
CTP	Comprehensive Transportation Plan
DBE	Disadvantaged Business Enterprise
DEMO	Federal Demonstration Funds
DOT	Department of Transportation
EA	Environmental Assessment
E&D	Elderly and Disabled
E&H	Elderly and Handicapped
EIR	Environmental Impact Report (California)
EIS	Environmental Impact Statement (Federal)
EPA	Environmental Protection Agency
FHWA	Federal Highway Administration
FSP	Freeway Service Patrol
FRA	Federal Railroad Administration
FTA	Federal Transit Administration
FTIP	Federal Transportation Improvement Program
GFOA	Government Finance Officers Association
GIS	Geographic Information Systems
HOV	High-Occupancy Vehicle
ICTC	Interstate Clean Transportation Corridor
IEEP	Inland Empire Economic Partnership
ISTEA	Intermodal Surface Transportation Efficiency Act of 1991
IIP/ITIP	Interregional Transportation Improvement Program
ITS	Intelligent Transportation Systems
IVDA	Inland Valley Development Agency
JARC	Job Access Reverse Commute
LACMTA	Los Angeles County Metropolitan Transportation Authority
LNG	Liquefied Natural Gas
LTF	Local Transportation Funds

MAGLEV	Magnetic Levitation
MARTA	Mountain Area Regional Transportation Authority
MBTA	Morongo Basin Transit Authority
MDAB	Mojave Desert Air Basin
MDAQMD	Mojave Desert Air Quality Management District
MOU	Memorandum of Understanding
MPO	Metropolitan Planning Organization
MSRC	Mobile Source Air Pollution Reduction Review Committee
NAT	Needles Area Transit
NEPA	National Environmental Policy Act
OA	Obligation Authority
OCTA	Orange County Transportation Authority
PA&ED	Project Approval and Environmental Document
PASTACC	Public and Specialized Transportation Advisory and Coordinating Council
PDT	Project Development Team
PNRS	Projects of National and Regional Significance
PPM	Planning, Programming and Monitoring Funds
PSE	Plans, Specifications and Estimates
PSR	Project Study Report
PTA	Public Transportation Account
PTC	Positive Train Control
PTMISEA	Public Transportation Modernization, Improvement and Service Enhancement Account
RCTC	Riverside County Transportation Commission
RDA	Redevelopment Agency
RFP	Request for Proposal
RIP	Regional Improvement Program
RSTIS	Regionally Significant Transportation Investment Study
RTIP	Regional Transportation Improvement Program
RTP	Regional Transportation Plan
RTPA	Regional Transportation Planning Agencies
SB	Senate Bill
SAFE	Service Authority for Freeway Emergencies
SAFETEA-LU	Safe Accountable Flexible Efficient Transportation Equity Act – A Legacy for Users
SCAB	South Coast Air Basin
SCAG	Southern California Association of Governments
SCAQMD	South Coast Air Quality Management District
SCRRA	Southern California Regional Rail Authority
SHA	State Highway Account
SHOPP	State Highway Operations and Protection Program
SOV	Single-Occupant Vehicle
S RTP	Short Range Transit Plan
STAF	State Transit Assistance Funds
STIP	State Transportation Improvement Program
STP	Surface Transportation Program
TAC	Technical Advisory Committee
TCIF	Trade Corridor Improvement Fund
TCM	Transportation Control Measure
TCRP	Traffic Congestion Relief Program
TDA	Transportation Development Act
TEA	Transportation Enhancement Activities
TEA-21	Transportation Equity Act for the 21 <sup>st</sup> Century
TMC	Transportation Management Center
TMEE	Traffic Management and Environmental Enhancement
TSM	Transportation Systems Management
TSSDRA	Transit System Safety, Security and Disaster Response Account
USFWS	United States Fish and Wildlife Service
VCTC	Ventura County Transportation Commission
VVTA	Victor Valley Transit Authority
WRCOG	Western Riverside Council of Governments

*San Bernardino Associated Governments*



**MISSION STATEMENT**

To enhance the quality of life for all residents, San Bernardino Associated Governments (SANBAG) will:

- Improve cooperative regional planning
- Develop an accessible, efficient, multi-modal transportation system
- Strengthen economic development efforts
- Exert leadership in creative problem solving

To successfully accomplish this mission, SANBAG will foster enhanced relationships among all of its stakeholders while adding to the value of local governments.

Approved June 2, 1993  
Reaffirmed March 6, 1996