

## Appendix F – Draft Agreements/MOUs

### Joint Procurement

**MEMORANDUM OF UNDERSTANDING**  
**Between**  
**OMNITRANS**  
**And**  
**VICTOR VALLEY TRANSIT AUTHORITY**  
**For**  
**JOINT PROCUREMENT**

**This Memorandum of Understanding** (“MOU”) is effective as of this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between Omnitrans (“OMNITRANS”), a public agency formed under a Joint Powers Agreement, whose address is 1700 West Fifth St., San Bernardino, California, 92411, and Victor Valley Transit Authority (“VVTA”), a public agency formed under a Joint Powers Agreement, whose address is address, 17150 Smoketree St., Hesperia, California, 92345. OMNITRANS and VVTA are each a “Party” and collectively the “Parties” as identified herein.

**RECITALS:**

**WHEREAS**, OMNITRANS and VVTA both provide transit service in San Bernardino County funded by a variety of federal, state, local, and fare revenue sources; and

**WHEREAS**, for certain types of agency procurements, it may be more cost-effective for the agencies to jointly procure such items in order to achieve economies of scale, make best use of transit funding and minimize costs; and

**WHEREAS**, the Parties desire to establish a mutual understanding to provide for OMNITRANS acting as lead agency, and VVTA acting as participating agency, on such joint procurements, when it is in the interest of both parties to do so; and

**WHEREAS**, this MOU shall supersede any and all previous joint procurement agreements between OMNITRANS and VVTA.

**NOW, THEREFORE**, OMNITRANS and VVTA in consideration of the mutual covenants hereinafter set forth and intending to be legally bound hereby agree as follows:

1. **Complete Agreement.** This MOU, including any exhibits and documents incorporated herein and made applicable by reference, constitutes the complete and exclusive statement of the terms and conditions of the MOU between OMNITRANS and VVTA concerning joint procurement activities, and supersedes all prior representations, understandings, and communications between the parties. The above-referenced Recitals are true and correct and are incorporated by reference herein.
2. **OMNITRANS Responsibilities.** OMNITRANS agrees to the following responsibilities for joint procurements:
  - a. Omnitrans shall serve as lead agency on joint procurements on which the agencies mutually agree to participate. Procurement services (“SERVICES”) may include, but are not limited to, working with participating agencies to prepare

and issue Request for Proposals or Invitation for Bids documents, scopes of work, evaluation criteria, and addenda, acting as lead agency during the joint procurement process, communications with vendors/suppliers, leading proposal or bid evaluation processes, and awarding procurement contracts when in the interest of the parties to do so.

- b. OMNITRANS shall work with VVTA to schedule such joint procurements in a timely manner, consistent with the availability and workload of both agencies' staffs.
  - c. OMNITRANS shall ensure that the joint procurements comply with and are consistent with all federal, state and local regulations, circulars and guidelines.
  - d. OMNITRANS is acting as an independent contractor under this MOU and shall pay all wages, salaries, and other amounts due to their own personnel in connection with any and all SERVICES provided under this MOU, as well as that which may be required by law. OMNITRANS shall be responsible for all reports and obligations respecting their own personnel, including, but not limited to social security taxes, income tax withholding, unemployment insurance, benefits and workers compensation insurance. OMNITRANS shall have exclusive control over its employees and VVTA shall not have any authority to direct or control employees of OMNITRANS. OMNITRANS' employees or agents shall not be deemed VVTA employees or agents for any purpose.
  - e. OMNITRANS agrees to indemnify, defend and hold harmless VVTA, its member agencies, officers, directors, employees, and agents from and against any and all claims, liabilities, and actions whether legal, equitable or administrative, and costs and expenses (including attorney's fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage to or loss of use of property caused by the negligent acts, omissions, or willful misconduct by OMNITRANS, its officers, directors, employees, or agents in connection with or arising out of the performance of services under this MOU. This obligation shall not apply to negligent acts, omissions or willful misconduct of VVTA, its officers, directors, employees, or agents.
3. **VVTA Responsibilities.** VVTA agrees to the following responsibilities for joint procurements:
- a. VVTA shall be actively involved as a participating agency on joint procurements on which the agencies mutually agree to pursue. As a participating agency, VVTA shall provide input on joint procurements' scopes of work, evaluation criteria, data requirements on VVTA's historic product usage and projected use, and other background information required to provide vendors with sufficient information to make viable proposals/bids on the items or services being procured. VVTA shall also participate in the proposal or bid evaluation process, and shall award its own procurement contract to the selected vendor when it is in the interest of VVTA to do so.
  - b. VVTA shall work with Omnitrans to schedule such joint procurements in a timely manner, consistent with the availability and workload of both agencies' staffs.
  - c. VVTA shall review joint procurements to ensure they comply with and are consistent with all federal, state and local regulations, circulars and guidelines.
  - d. VVTA is acting as an independent contractor under this MOU and shall pay all wages, salaries, and other amounts due to their own personnel in connection with any and all SERVICES provided under this MOU, as well as that which may be required by law. VVTA shall be responsible for all reports and obligations respecting their own personnel, including, but not limited to social security taxes,

income tax withholding, unemployment insurance, benefits and workers compensation insurance. VVTA shall have exclusive control over its employees and OMNITRANS shall not have any authority to direct or control employees of VVTA. VVTA's employees or agents shall not be deemed OMNITRANS employees or agents for any purpose.

- e. VVTA agrees to indemnify, defend and hold harmless OMNITRANS, its member agencies, officers, directors, employees, and agents from and against any and all claims, liabilities, and actions whether legal, equitable or administrative, and costs and expenses (including attorney's fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage to or loss of use of property caused by the negligent acts, omissions, or willful misconduct by VVTA, its officers, directors, employees, or agents in connection with or arising out of the performance of this MOU. This obligation shall not apply to negligent acts, omissions or willful misconduct of OMNITRANS, its officers, directors, employees, or agents.

4. **The Parties Mutually Understand and Agree** to the following mutual responsibilities regarding joint procurements:

- a. Joint procurements may include, but are not limited to, the following items/services:
  - 1. Bus engine and/or transmission heavy overhaul
  - 2. Compressed Natural Gas (CNG) Station maintenance services
  - 3. CNG fuel supply or CNG price hedging financial instruments
  - 4. Non-revenue support vehicles
  - 5. Other items or services used by the agencies where there is mutual interest in conducting joint procurement.
- b. The scope of work for items or services being jointly procured shall include or address jointly-developed specifications, estimated quantities by agency, contract length/options, warranties and warranty repair arrangements, shipping charges where applicable, supplier schedules, and annual escalation rates.
- c. The Request for Proposals or Invitation for Bids document developed for specific procurements shall include language requiring each agency to award its own purchase contract to the successful supplier, if a contract award is determined to be in the agency's best interest.
- d. No agency shall be required to award a contract under a joint procurement if the procurement results are not economically advantageous to that agency.
- e. Each agency shall be responsible for the cost of the items or services which that agency purchases, including shipping charges to that agency's facility.
- f. This MOU shall commence upon execution by the Parties, and shall continue in full force unless terminated as provided in this MOU.
- g. This MOU may be amended in writing at any time by the mutual consent of the Parties. No amendment shall have any force or effect unless executed in writing by the Parties. The Parties agree that non-financial administrative changes, such as changes in key personnel, may be approved administratively without re-approval by the Agencies' Boards of Directors.
- h. OMNITRANS or VVTA may terminate this MOU, without cause, by delivering written notice of termination to the other Party not less than thirty (30) calendar days before the date of termination.
- i. The persons executing this MOU on behalf of the parties hereto warrant that they are duly authorized to execute this MOU on behalf of said parties and that, by so

executing this MOU, the parties hereto are formally bound to the provisions of this MOU.

- j. All notices hereunder and communications required or permitted by this MOU, or changes thereto, or by law to be served on, given to or delivered to any other Party hereto by any other Party to this MOU shall be in writing or authorized in writing, and may be sent by regular mail, email or FAX. Any such notice shall be addressed to:

Notices to OMNITRANS:

Name: Mr. Scott Graham  
Title: Chief Executive Officer/General Manager  
Address: 1700 West Fifth St.  
City, State Zip: San Bernardino, California, 92411  
Email: Scott.Graham@omnitrans.org  
FAX: 909-889-5779

Notices to VVTA:

Name: Mr. Kevin Kane  
Title: Executive Director  
Address: 17150 Smoketree St  
City, State Zip: Hesperia, California, 92345  
Email: kkane@vvta.org  
FAX: 760-948-1380

- k. The headings of all sections of this MOU are inserted solely for the convenience of reference and are not part of and not intended to govern, limit, or aid in the construction or interpretation of any terms or provision thereof.
- l. The provisions of this MOU shall bind and inure to the benefit of each of the parties hereto and all successors or assigns of the parties hereto.
- m. If any term, provision, covenant, or condition of this MOU is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder to this MOU shall not be affected thereby, and each term, provision, covenant or condition of this MOU shall be valid and enforceable to the fullest extent permitted by law.
- n. This MOU may be executed and delivered in any number of counterparts, each of which, when executed and delivered shall be deemed an original and all of which together shall constitute the same MOU. Secure electronic signatures will be permitted.
- o. Neither this MOU, nor any of a Party's rights, obligations or duties hereunder may be assigned in whole or in part by either Party without the prior written consent of the other Party. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.
- p. The Parties warrant that, in the performance of this MOU, they shall comply with all applicable federal, state and local laws, statutes and ordinances and lawful orders, rules and regulations promulgated thereunder.
- q. Either Party shall be excused from performing its obligations under this MOU during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood, acts of God, commandeering of material, products, plants

or facilities by the federal, state or local government, national fuel shortage, or a material act or omission by the other party, when satisfactory evidence of such cause is presented to the other party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the party not performing.

- r. This MOU shall be construed and interpreted solely in accordance with the laws of the State of California.

**IN WITNESS WHEREOF**, this MOU constitutes the entire understanding of the Parties hereto, and there are no other requirements, premises, warranties, covenants or undertakings with respect thereto, and have made and executed this MOU as of the day and year first above written.

OMNITRANS

Victor Valley Transit Authority

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

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

Name: P. Scott Graham

Name: Kevin Kane

Title: CEO/General Manager

Title: Executive Director

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

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

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**MEMORANDUM OF UNDERSTANDING**  
**Between**  
**OMNITRANS**  
**And**  
**MOUNTAIN AREA REGIONAL TRANSIT AUTHORITY**  
**For**  
**JOINT PROCUREMENT**

**This Memorandum of Understanding** (“MOU”) is effective as of this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between Omnitrans (“OMNITRANS”), a public agency formed under a Joint Powers Agreement, whose address is 1700 West Fifth St., San Bernardino, California, 92411, and Mountain Area Regional Transit Authority (Mountain Transit, or “MT”), a public agency formed under a Joint Powers Agreement, whose address is 41939 Fox Farm Road, Big Bear Lake, California, 92315. OMNITRANS and MT are each a “Party” and collectively the “Parties” as identified herein.

**RECITALS:**

**WHEREAS**, OMNITRANS and MT both provide transit service in San Bernardino County funded by a variety of federal, state, local, and fare revenue sources; and

**WHEREAS**, for certain types of agency procurements, it may be more cost-effective for the agencies to jointly procure such items in order to achieve economies of scale, make best use of transit funding and minimize costs; and

**WHEREAS**, the Parties desire to establish a mutual understanding to provide for OMNITRANS acting as lead agency, and MT acting as participating agency, on such joint procurements, when it is in the interest of both parties to do so; and

**WHEREAS**, this MOU shall supersede any and all previous joint procurement agreements between OMNITRANS and MT.

**NOW, THEREFORE**, OMNITRANS and MT in consideration of the mutual covenants hereinafter set forth and intending to be legally bound hereby agree as follows:

1. **Complete Agreement.** This MOU, including any exhibits and documents incorporated herein and made applicable by reference, constitutes the complete and exclusive statement of the terms and conditions of the MOU between OMNITRANS and MT concerning joint procurement activities, and supersedes all prior representations, understandings, and communications between the parties. The above-referenced Recitals are true and correct and are incorporated by reference herein.
2. **OMNITRANS Responsibilities.** OMNITRANS agrees to the following responsibilities for joint procurements:
  - a. Omnitrans shall serve as lead agency on joint procurements on which the agencies mutually agree to participate. Procurement services (“SERVICES”) may include, but are not limited to, working with participating agencies to prepare

and issue Request for Proposals or Invitation for Bids documents, scopes of work, evaluation criteria, and addenda, acting as lead agency during the joint procurement process, communications with vendors/suppliers, leading proposal or bid evaluation processes, and awarding procurement contracts when in the interest of the parties to do so.

- b. OMNITRANS shall work with MT to schedule such joint procurements in a timely manner, consistent with the availability and workload of both agencies' staffs.
  - c. OMNITRANS shall ensure that the joint procurements comply with and are consistent with all federal, state and local regulations, circulars and guidelines.
  - d. OMNITRANS is acting as an independent contractor under this MOU and shall pay all wages, salaries, and other amounts due to their own personnel in connection with any and all SERVICES provided under this MOU, as well as that which may be required by law. OMNITRANS shall be responsible for all reports and obligations respecting their own personnel, including, but not limited to social security taxes, income tax withholding, unemployment insurance, benefits and workers compensation insurance. OMNITRANS shall have exclusive control over its employees and MT shall not have any authority to direct or control employees of OMNITRANS. OMNITRANS' employees or agents shall not be deemed MT employees or agents for any purpose.
  - e. OMNITRANS agrees to indemnify, defend and hold harmless MT, its member agencies, officers, directors, employees, and agents from and against any and all claims, liabilities, and actions whether legal, equitable or administrative, and costs and expenses (including attorney's fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage to or loss of use of property caused by the negligent acts, omissions, or willful misconduct by OMNITRANS, its officers, directors, employees, or agents in connection with or arising out of the performance of services under this MOU. This obligation shall not apply to negligent acts, omissions or willful misconduct of MT, its officers, directors, employees, or agents.
3. **MT Responsibilities.** MT agrees to the following responsibilities for joint procurements:
- a. MT shall be actively involved as a participating agency on joint procurements on which the agencies mutually agree to pursue. As a participating agency, MT shall provide input on joint procurements' scopes of work, evaluation criteria, data requirements on MT's historic product usage and projected use, and other background information required to provide vendors with sufficient information to make viable proposals/bids on the items or services being procured. MT shall also participate in the proposal or bid evaluation process, and shall award its own procurement contract to the selected vendor when it is in the interest of MT to do so.
  - b. MT shall work with Omnitrans to schedule such joint procurements in a timely manner, consistent with the availability and workload of both agencies' staffs.
  - c. MT shall review joint procurements to ensure they comply with and are consistent with all federal, state and local regulations, circulars and guidelines.
  - d. MT is acting as an independent contractor under this MOU and shall pay all wages, salaries, and other amounts due to their own personnel in connection with any and all SERVICES provided under this MOU, as well as that which may be required by law. MT shall be responsible for all reports and obligations respecting their own personnel, including, but not limited to social security taxes, income tax withholding, unemployment insurance, benefits and workers



compensation insurance. MT shall have exclusive control over its employees and OMNITRANS shall not have any authority to direct or control employees of MT. MT's employees or agents shall not be deemed OMNITRANS employees or agents for any purpose.

- e. MT agrees to indemnify, defend and hold harmless OMNITRANS, its member agencies, officers, directors, employees, and agents from and against any and all claims, liabilities, and actions whether legal, equitable or administrative, and costs and expenses (including attorney's fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage to or loss of use of property caused by the negligent acts, omissions, or willful misconduct by MT, its officers, directors, employees, or agents in connection with or arising out of the performance of this MOU. This obligation shall not apply to negligent acts, omissions or willful misconduct of OMNITRANS, its officers, directors, employees, or agents.

4. **The Parties Mutually Understand and Agree** to the following mutual responsibilities regarding joint procurements:

- a. Joint procurements may include, but are not limited to, the following items/services:
  - 1. Bus engine and/or transmission heavy overhaul
  - 2. Buses or other service or support vehicles
  - 3. Other items or services used by the agencies where there is mutual interest in conducting joint procurement.
- b. The scope of work for items or services being jointly procured shall include or address jointly-developed specifications, estimated quantities by agency, contract length/options, warranties and warranty repair arrangements, shipping charges where applicable, supplier schedules, and annual escalation rates.
- c. The Request for Proposals or Invitation for Bids document developed for specific procurements shall include language requiring each agency to award its own purchase contract to the successful supplier, if a contract award is determined to be in the agency's best interest.
- d. No agency shall be required to award a contract under a joint procurement if the procurement results are not economically advantageous to that agency.
- e. Each agency shall be responsible for the cost of the items or services which that agency purchases, including shipping charges to that agency's facility.
- f. This MOU shall commence upon execution by the Parties, and shall continue in full force unless terminated as provided in this MOU.
- g. This MOU may be amended in writing at any time by the mutual consent of the Parties. No amendment shall have any force or effect unless executed in writing by the Parties. The Parties agree that non-financial administrative changes, such as changes in key personnel, may be approved administratively without re-approval by the Agencies' Boards of Directors.
- h. OMNITRANS or MT may terminate this MOU, without cause, by delivering written notice of termination to the other Party not less than thirty (30) calendar days before the date of termination.
- i. The persons executing this MOU on behalf of the parties hereto warrant that they are duly authorized to execute this MOU on behalf of said parties and that, by so executing this MOU, the parties hereto are formally bound to the provisions of this MOU.
- j. All notices hereunder and communications required or permitted by this MOU, or changes thereto, or by law to be served on, given to or delivered to any other

Party hereto by any other Party to this MOU shall be in writing or authorized in writing, and may be sent by regular mail, email or FAX. Any such notice shall be addressed to:

**Notices to OMNITRANS:**

Name: Mr. Scott Graham  
Title: Chief Executive Officer/General Manager  
Address: 1700 West Fifth St.  
City, State Zip: San Bernardino, California, 92411  
Email: Scott.Graham@omnitrans.org  
FAX: 909-889-5779

**Notices to the MT:**

Name: Ms. Kathy Hawksford  
Title: General Manager/Chief Executive Officer  
Physical Address: 41939 Fox Farm Road  
Mailing Address: PO Box 1501  
City, State Zip: Big Bear Lake, California, 92315  
Email: [khawksford@mountaintransit.org](mailto:khawksford@mountaintransit.org)  
FAX: 909-963-7200

- k. The headings of all sections of this MOU are inserted solely for the convenience of reference and are not part of and not intended to govern, limit, or aid in the construction or interpretation of any terms or provision thereof.
- l. The provisions of this MOU shall bind and inure to the benefit of each of the parties hereto and all successors or assigns of the parties hereto.
- m. If any term, provision, covenant, or condition of this MOU is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder to this MOU shall not be affected thereby, and each term, provision, covenant or condition of this MOU shall be valid and enforceable to the fullest extent permitted by law.
- n. This MOU may be executed and delivered in any number of counterparts, each of which, when executed and delivered shall be deemed an original and all of which together shall constitute the same MOU. Secure electronic signatures will be permitted.
- o. Neither this MOU, nor any of a Party's rights, obligations or duties hereunder may be assigned in whole or in part by either Party without the prior written consent of the other Party. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.
- p. The Parties warrant that, in the performance of this MOU, they shall comply with all applicable federal, state and local laws, statutes and ordinances and lawful orders, rules and regulations promulgated thereunder.
- q. Either Party shall be excused from performing its obligations under this MOU during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood, acts of God, commandeering of material, products, plants or facilities by the federal, state or local government, national fuel shortage, or a material act or omission by the other party, when satisfactory evidence of such cause is presented to the other party, and provided further that such

nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the party not performing.

- r. This MOU shall be construed and interpreted solely in accordance with the laws of the State of California.

**IN WITNESS WHEREOF**, this MOU constitutes the entire understanding of the Parties hereto, and there are no other requirements, premises, warranties, covenants or undertakings with respect thereto, and have made and executed this MOU as of the day and year first above written.

**OMNITRANS**

**Mountain Transit**

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

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

Name: P. Scott Graham

Name: Kathy Hawksford

Title: CEO/General Manager

Title: General Manager/CEO

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

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

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**MEMORANDUM OF UNDERSTANDING**  
**Between**  
**OMNITRANS**  
**And**  
**MORONGO BASIN TRANSIT AUTHORITY**  
**For**  
**JOINT PROCUREMENT**

**This Memorandum of Understanding** (“MOU”) is effective as of this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between Omnitrans (“OMNITRANS”), a public agency formed under a Joint Powers Agreement, whose address is 1700 West Fifth St., San Bernardino, California, 92411, and Morongo Basin Transit Authority (“MBTA”), a public agency formed under a Joint Powers Agreement, whose address is 62405 Verbena Road, Joshua Tree, California, 92252. OMNITRANS and MBTA are each a “Party” and collectively the “Parties” as identified herein.

**RECITALS:**

**WHEREAS**, OMNITRANS and MBTA both provide transit service in San Bernardino County funded by a variety of federal, state, local, and fare revenue sources; and

**WHEREAS**, for certain types of agency procurements, it may be more cost-effective for the agencies to jointly procure such items in order to achieve economies of scale, make best use of transit funding and minimize costs; and

**WHEREAS**, the Parties desire to establish a mutual understanding to provide for OMNITRANS acting as lead agency, and MBTA acting as participating agency, on such joint procurements, when it is in the interest of both parties to do so; and

**WHEREAS**, this MOU shall supersede any and all previous joint procurement agreements between OMNITRANS and MBTA.

**NOW, THEREFORE**, OMNITRANS and MBTA in consideration of the mutual covenants hereinafter set forth and intending to be legally bound hereby agree as follows:

1. **Complete Agreement.** This MOU, including any exhibits and documents incorporated herein and made applicable by reference, constitutes the complete and exclusive statement of the terms and conditions of the MOU between OMNITRANS and MBTA concerning joint procurement activities, and supersedes all prior representations, understandings, and communications between the parties. The above-referenced Recitals are true and correct and are incorporated by reference herein.
2. **OMNITRANS Responsibilities.** OMNITRANS agrees to the following responsibilities for joint procurements:
  - a. Omnitrans shall serve as lead agency on joint procurements on which the agencies mutually agree to participate. Procurement services (“SERVICES”) may include, but are not limited to, working with participating agencies to prepare

and issue Request for Proposals or Invitation for Bids documents, scopes of work, evaluation criteria, and addenda, acting as lead agency during the joint procurement process, communications with vendors/suppliers, leading proposal or bid evaluation processes, and awarding procurement contracts when in the interest of the parties to do so.

- b. OMNITRANS shall work with MBTA to schedule such joint procurements in a timely manner, consistent with the availability and workload of both agencies' staffs.
- c. OMNITRANS shall ensure that the joint procurements comply with and are consistent with all federal, state and local regulations, circulars and guidelines.
- d. OMNITRANS is acting as an independent contractor under this MOU and shall pay all wages, salaries, and other amounts due to their own personnel in connection with any and all SERVICES provided under this MOU, as well as that which may be required by law. OMNITRANS shall be responsible for all reports and obligations respecting their own personnel, including, but not limited to social security taxes, income tax withholding, unemployment insurance, benefits and workers compensation insurance. OMNITRANS shall have exclusive control over its employees and MBTA shall not have any authority to direct or control employees of OMNITRANS. OMNITRANS' employees or agents shall not be deemed MBTA employees or agents for any purpose.
- e. OMNITRANS agrees to indemnify, defend and hold harmless MBTA, its member agencies, officers, directors, employees, and agents from and against any and all claims, liabilities, and actions whether legal, equitable or administrative, and costs and expenses (including attorney's fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage to or loss of use of property caused by the negligent acts, omissions, or willful misconduct by OMNITRANS, its officers, directors, employees, or agents in connection with or arising out of the performance of services under this MOU. This obligation shall not apply to negligent acts, omissions or willful misconduct of MBTA, its officers, directors, employees, or agents.
- f. To the fullest extent permitted by law, OMNITRANS shall protect, indemnify, defend and hold harmless MBTA and any and all of its officials, employees, volunteers, and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, and costs and expenses (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees) where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the negligence, recklessness, or willful misconduct of MBTA, its officers, agents,

**3. MBTA Responsibilities.** MBTA agrees to the following responsibilities for joint procurements:

- a. MBTA shall be actively involved as a participating agency on joint procurements on which the agencies mutually agree to pursue. As a participating agency, MBTA shall provide input on joint procurements' scopes of work, evaluation criteria, data requirements on MBTA's historic product usage and projected use, and other background information required to provide vendors with sufficient information to make viable proposals/bids on the items or services being procured. MBTA shall also participate in the proposal or bid evaluation process, and shall award its own procurement contract to the selected vendor when it is in the interest of MBTA to do so.

- b. MBTA shall work with Omnitrans to schedule such joint procurements in a timely manner, consistent with the availability and workload of both agencies' staffs.
  - c. MBTA shall review joint procurements to ensure they comply with and are consistent with all federal, state and local regulations, circulars and guidelines.
  - d. MBTA is acting as an independent contractor under this MOU and shall pay all wages, salaries, and other amounts due to their own personnel in connection with any and all SERVICES provided under this MOU, as well as that which may be required by law. MBTA shall be responsible for all reports and obligations respecting their own personnel, including, but not limited to social security taxes, income tax withholding, unemployment insurance, benefits and workers compensation insurance. MBTA shall have exclusive control over its employees and OMNITRANS shall not have any authority to direct or control employees of MBTA. MBTA's employees or agents shall not be deemed OMNITRANS employees or agents for any purpose.
  - e. MBTA agrees to indemnify, defend and hold harmless OMNITRANS, its member agencies, officers, directors, employees, and agents from and against any and all claims, liabilities, and actions whether legal, equitable or administrative, and costs and expenses (including attorney's fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage to or loss of use of property caused by the negligent acts, omissions, or willful misconduct by MBTA, its officers, directors, employees, or agents in connection with or arising out of the performance of this MOU. This obligation shall not apply to negligent acts, omissions or willful misconduct of OMNITRANS, its officers, directors, employees, or agents.
  - f. To the fullest extent permitted by law, MBTA shall protect, indemnify, defend and hold harmless OMNITRANS and any and all of its officials, employees, volunteers, and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, and costs and expenses (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees) where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the negligence, recklessness, or willful misconduct of OMNITRANS, its officers, agents,
4. **The Parties Mutually Understand and Agree** to the following mutual responsibilities regarding joint procurements:
- a. Joint procurements may include, but are not limited to, the following items/services:
    - 1. Bus engine and/or transmission heavy overhaul
    - 2. Compressed Natural Gas (CNG) Station maintenance services
    - 3. CNG fuel supply or CNG price hedging financial instruments
    - 4. Non-revenue support vehicles
    - 5. Other items or services used by the agencies where there is mutual interest in conducting joint procurement.
  - b. The scope of work for items or services being jointly procured shall include or address jointly-developed specifications, estimated quantities by agency, contract length/options, warranties and warranty repair arrangements, shipping charges where applicable, supplier schedules, and annual escalation rates.
  - c. The Request for Proposals or Invitation for Bids document developed for specific procurements shall include language requiring each agency to award its own

purchase contract to the successful supplier, if a contract award is determined to be in the agency's best interest.

- d. Participation in joint procurements is entirely voluntary on the part of each agency. Either agency may withdraw after a joint procurement is developed and before it is advertised. Furthermore, no agency shall be required to award a contract under a joint procurement if the procurement results are not economically advantageous to that agency.
- e. Each agency shall be responsible for the cost of the items or services which that agency purchases, including shipping charges to that agency's facility.
- f. This MOU shall commence upon execution by the Parties, and shall continue in full force unless terminated as provided in this MOU.
- g. This MOU may be amended in writing at any time by the mutual consent of the Parties. No amendment shall have any force or effect unless executed in writing by the Parties. The Parties agree that non-financial administrative changes, such as changes in key personnel, may be approved administratively without re-approval by the Agencies' Boards of Directors.
- h. OMNITRANS or MBTA may terminate this MOU, without cause, by delivering written notice of termination to the other Party not less than thirty (30) calendar days before the date of termination.
- i. The persons executing this MOU on behalf of the parties hereto warrant that they are duly authorized to execute this MOU on behalf of said parties and that, by so executing this MOU, the parties hereto are formally bound to the provisions of this MOU.
- j. All notices hereunder and communications required or permitted by this MOU, or changes thereto, or by law to be served on, given to or delivered to any other Party hereto by any other Party to this MOU shall be in writing or authorized in writing, and may be sent by regular mail, email or FAX. Any such notice shall be addressed to:

**Notices to OMNITRANS:**

Name: Mr. Scott Graham  
Title: Chief Executive Officer/General Manager  
Address: 1700 West Fifth St.  
City, State Zip: San Bernardino, California, 92411  
Email: Scott.Graham@omnitrans.org  
FAX: 909-889-5779

**Notices to the MBTA:**

Name: Mark Goodale  
Title: General Manager  
Physical Address: 62405 Verbena Road  
City, State Zip: Joshua Tree, California, 92252  
Email: [mark@mbtabus.com](mailto:mark@mbtabus.com)  
FAX: 760-366-2445

- k. The headings of all sections of this MOU are inserted solely for the convenience of reference and are not part of and not intended to govern, limit, or aid in the construction or interpretation of any terms or provision thereof.
- l. The provisions of this MOU shall bind and inure to the benefit of each of the parties hereto and all successors or assigns of the parties hereto.

- m. If any term, provision, covenant, or condition of this MOU is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder to this MOU shall not be affected thereby, and each term, provision, covenant or condition of this MOU shall be valid and enforceable to the fullest extent permitted by law.
- n. This MOU may be executed and delivered in any number of counterparts, each of which, when executed and delivered shall be deemed an original and all of which together shall constitute the same MOU. Secure electronic signatures will be permitted.
- o. Neither this MOU, nor any of a Party's rights, obligations or duties hereunder may be assigned in whole or in part by either Party without the prior written consent of the other Party. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.
- p. The Parties warrant that, in the performance of this MOU, they shall comply with all applicable federal, state and local laws, statutes and ordinances and lawful orders, rules and regulations promulgated thereunder.
- q. Either Party shall be excused from performing its obligations under this MOU during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood, acts of God, commandeering of material, products, plants or facilities by the federal, state or local government, national fuel shortage, or a material act or omission by the other party, when satisfactory evidence of such cause is presented to the other party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the party not performing.
- r. This MOU shall be construed and interpreted solely in accordance with the laws of the State of California.

**IN WITNESS WHEREOF**, this MOU constitutes the entire understanding of the Parties hereto, and there are no other requirements, premises, warranties, covenants or undertakings with respect thereto, and have made and executed this MOU as of the day and year first above written.

OMNITRANS

Morongo Basin Transit Authority

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

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

Name: P. Scott Graham

Name: Mark Goodale

Title: CEO/General Manager

Title: General Manager

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

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

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Name: \_\_\_\_\_

Name: \_\_\_\_\_



Title: \_\_\_\_\_

Title: \_\_\_\_\_

# Appendix F – Draft Agreements/MOUs

## Project Development

**COOPERATIVE AGREEMENT NO XXX**  
**BY AND BETWEEN SAN BERNARDINO ASSOCIATED GOVERNMENTS**  
**AND**  
**VICTOR VALLEY TRANSIT AUTHORITY**  
**FOR**  
**TEMPORARY FURNISHING OF STAFF ASSISTANCE FOR PROJECT**  
**DEVELOPMENT, DESIGN, AND CONSTRUCTION MANAGEMENT**

**THIS COOPERATIVE AGREEMENT** (“Agreement”) is effective on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the San Bernardino Associated Governments/San Bernardino Transportation Authority (“SANBAG”), whose address is 1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor, San Bernardino, California 92410-1715, and Victor Valley Transit Authority (“VVTA”), a public agency formed under a Joint Powers Agreement, whose address is address, 17150 Smoketree St., Hesperia, California, 92345. SANBAG and VVTA are each a “Party” and collectively are the “Parties” as identified herein.

**RECITALS:**

**WHEREAS**, SANBAG, as the County Transportation Commission and the San Bernardino County Transportation Authority for San Bernardino County, has the responsibility to oversee and coordinate the provision of public transportation services and allocation of local, state and Federal funds for the County; and

**WHEREAS**, VVTA provides Dial-a-Ride and Fixed Route public transportation services throughout the Victor Valley Subarea cities of Adelanto, Hesperia, Victorville, the Town of Apple Valley, and San Bernardino County communities of Helendale, Lucerne Valley, Oro Grande, Phelan, Pinon Hills, Silver Lakes, and Wrightwood, as well as the Barstow Area Transit service area. VVTA also provides B-V Link Lifeline service between Barstow, Victor Valley, and San Bernardino Valley, and NTC Commuter Service to Barstow and Fort Irwin; and

**WHEREAS**, VVTA anticipates the need for new or expanded operating facilities and/or transit centers to support its public transit service operations (the “Projects”), and is in need of project development/ management/engineering support services; and

**WHEREAS**, SANBAG has certain project development/ management/engineering Staff and/or On-Call Consultants under Contract (collectively referred to as SANBAG STAFF) that are or can become available to assist VVTA;

**NOW, THEREFORE**, SANBAG and VVTA in consideration of the mutual covenants hereinafter set forth and intending to be legally bound hereby agree as follows:

**1. Project Management Responsibilities**

- a. Overall Project Management Responsibility for the Project as identified in Exhibit “A” Scope of Work shall remain with VVTA.

- b. VVTA's Project Manager or his/her designee shall provide direction to SANBAG STAFF assisting VVTA on the Project as identified in Exhibit "A" Scope of Work.

## 2. SANBAG Responsibilities

- a. SANBAG shall provide project development / management / engineering support services through a combination of SANBAG STAFF, to VVTA, for support of the Projects as identified in Exhibit "A" Scope of Work.
- b. The total not-to-exceed cost for services provided in Exhibit "A" to be reimbursed to SANBAG under this AGREEMENT shall not exceed \$ [REDACTED] over the term of this AGREEMENT, unless subsequently amended by mutual agreement of the Parties. The specific SANBAG STAFF positions, their rates and estimated Other Direct Costs are identified in Exhibit "B" SANBAG Billing Rate Schedule.
- c. SANBAG STAFF selected for this assignment shall be selected by SANBAG with the review and concurrence of the VVTA, and are subject to change. SANBAG shall endeavor to make the SANBAG STAFF selected for services provided on the Project available for a minimum of XX months.
- d. SANBAG STAFF will recognize and follow all applicable rules, regulations or policies established by VVTA affecting or pertaining to operation of the Project site(s), when SANBAG STAFF are performing services.
- e. SANBAG STAFF shall work as needed per Exhibit "A" Scope of Work, but not to exceed a forty (40) hour workweek and shall be on the same schedule as SANBAG's regular employees unless other work schedule arrangements are agreed in writing.
- f. SANBAG STAFF working on the Projects shall acknowledge that certain confidential or proprietary information belonging to VVTA may become available to them, and as such, shall maintain such confidentiality.
- g. SANBAG STAFF are assigned to VVTA only for the purposes and to the extent set forth in this Agreement. SANBAG STAFF'S relationship to VVTA and its subsidiaries and clients shall during the period of this assignment and services hereunder be that of a SANBAG employee or independent consultant, as applicable, working in a professional manner. SANBAG STAFF shall not be considered as having an employee status with VVTA or being entitled to participate in any plans or benefits of VVTA for its regular employees. SANBAG assumes full responsibility for all employment contributions, taxes, withholding, etc, under any state and local laws, as applicable.
- h. SANBAG shall invoice VVTA no more frequently than monthly, and no less than quarterly for the services provided for that period, based on actual hours worked and using the fully-burdened hourly rates for direct employees, and the approved hourly billing rates for assigned consultant staff. Such fully-burdened hourly rates shall be specific to each position type, will be disclosed to VVTA in advance, and will be consistent with the labor rate in Exhibit "B". SANBAG'S fully-burdened employee hourly rates shall include employee labor rates, fringe, benefits and overhead items such as workers' compensation, insurance, computers, office space and phone. For SANBAG On-Call Consultants assigned to the Project, SANBAG shall invoice VVTA

the amount so billed from the On-Call Consultants during the invoice period. With each invoice, SANBAG shall also identify any actual Project-related administrative, travel and other direct costs incurred by SANBAG STAFF in managing VVTA's project. Mileage shall be billed based on the current, approved Internal Revenue Service rate. However, SANBAG shall not apply a flat administrative fee or percentage.

### **3. VVTA Responsibilities**

- a. VVTA shall direct and control the work activities of the SANBAG STAFF on Project work described herein, and shall be responsible for providing a safe place to work in compliance with all safety laws and regulations while working at VVTA-designated work site(s). VVTA is not responsible for the health or safety of any SANBAG STAFF due to injuries or property damage caused by others not within the control of VVTA at any Project site.
- b. VVTA shall furnish SANBAG STAFF a copy of applicable rules, regulations and policies that VVTA deems necessary to implement the provisions in Section 2.d above.
- c. VVTA strictly agrees that it shall not induce, passively or actively solicit, approach or hire any of the SANBAG STAFF so long as this agreement is in effect and for a period of one (1) year thereafter except if mutually agreed in writing by SANBAG, VVTA, and, if applicable, on-call consultants under contract, on a case by case basis.
- d. Upon receipt of the SANBAG invoice, VVTA shall approve and make prompt payment on all invoices or explain in writing to the SANBAG Contact identified in Section 8 below (or designee), the reason for disapproval of any item within 10 business days of receipt. VVTA payment for undisputed invoice amounts shall be made within 30 days of receipt of invoice.

### **4. SANBAG and VVTA Joint Responsibilities**

- a. If SANBAG STAFF is deemed by VVTA or SANBAG to be unqualified to perform the assignment contracted for, VVTA may request the removal and/or replacement of the SANBAG STAFF.
- b. Overtime hours shall be defined by SANBAG and approved by VVTA, and SANBAG STAFF shall not be directed by VVTA to work Overtime hours, unless agreed to in writing by both Parties.

### **5. Indemnification**

- a. Neither SANBAG nor any officer or employee or agent thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by VVTA and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon VVTA under this Agreement. It is understood and agreed that VVTA will fully defend, indemnify, and save harmless SANBAG and all of its officers, employees and agents from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by VVTA and/or its agents under this Agreement.

- b. Neither VVTA nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by SANBAG and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon SANBAG under this Agreement. It is understood and agreed that SANBAG will fully defend, indemnify, and save harmless VVTA and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by SANBAG and/or its agents under this Agreement.
6. **Venue.** This AGREEMENT shall be construed and interpreted solely in accordance with the laws of the State of California.
7. **Binding Provisions.** The persons executing this AGREEMENT on behalf of the Parties hereto warrant that they are duly authorized to execute this AGREEMENT on behalf of said Parties and that, by so executing this AGREEMENT, the Parties hereto are formally bound to the provisions of this AGREEMENT.
8. **Notices.** All notices hereunder and communications required or permitted by this AGREEMENT, or changes thereto, or by law to be served on, given to or delivered to any other Party hereto by any other Party to this AGREEMENT shall be in writing or authorized in writing, and may be sent by regular mail, email or FAX. Any such notice shall be addressed to:

**Notices to SANBAG:**

Name: Raymond W. Wolfe  
Title: Executive Director  
Address: 1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor  
City, State Zip: San Bernardino, California, 92410  
Email: [rwolfe@sanbag.ca.gov](mailto:rwolfe@sanbag.ca.gov)  
FAX: 909-885-4407

**Notices to VVTA:**

Name: Mr. Kevin Kane  
Title: Executive Director  
Address: 17150 Smoketree St  
City, State Zip: Hesperia, California, 92345  
Email: [kkane@vvta.org](mailto:kkane@vvta.org)  
FAX: 760-948-1380

9. **Other Provisions.**
- a. The headings of all sections of this AGREEMENT are inserted solely for the convenience of reference and are not part of and not intended to govern, limit, or aid in the construction or interpretation of any terms or provision thereof.
- b. The provision of this AGREEMENT shall bind and inure to the benefit of each of the Parties hereto and all successors or assigns of the Parties hereto.

- c. If any term, provision, covenant, or condition of this AGREEMENT is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder to this AGREEMENT shall not be affected thereby, and each term, provision, covenant or condition of this AGREEMENT shall be valid and enforceable to the fullest extent permitted by law.
- d. This AGREEMENT may be executed and delivered in any number of counterparts, each of which, when executed and delivered shall be deemed an original and all of which together shall constitute the same AGREEMENT. Secure electronic signatures will be permitted.
- e. This AGREEMENT may be amended in writing at any time by the mutual consent of the Parties. No amendment shall have any force or effect unless executed in writing by the Parties. The Parties agree that minor administrative changes, such as changes in assigned staff, modifications to scope-of-work elements, etc., may be approved administratively without re-approval by the Agencies' Boards of Directors.
- f. SANBAG or VVTA may terminate this AGREEMENT, without cause, by delivering written notice of termination to the other Party not less than thirty (30) calendar days before the date of termination. In the event that services are underway at the time such notice of termination is issued, SANBAG and its on-call consultants, if assigned to the project, shall follow the termination provisions of the on-call contracts and any outstanding services up to the date of termination shall be paid for in accordance with AGREEMENT terms before termination of this AGREEMENT shall be complete.
- g. Neither this AGREEMENT, nor any of a Party's rights, obligations or duties hereunder may be assigned in whole or in part by either Party without the prior written consent of the other Party. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.
- h. The Parties warrant that, in the performance of this AGREEMENT, they shall comply with all applicable federal, state and local laws, statutes and ordinances and lawful orders, rules and regulations promulgated thereunder.
- i. Either Party shall be excused from performing its obligations under this AGREEMENT during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood, acts of God, commandeering of material, products, plants or facilities by the federal, state or local government, national fuel shortage, or a material act or omission by the other Party, when satisfactory evidence of such cause is presented to the other Party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the Party not performing.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first above written.

**San Bernardino Associated Governments**

**Victor Valley Transit Authority**

By: \_\_\_\_\_  
Raymond W. Wolfe  
Executive Director

By: \_\_\_\_\_  
Kevin Kane  
Executive Director

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

APPROVED AS TO FORM:

APPROVED AS TO FORM:

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

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

Name/Title: \_\_\_\_\_

Name/Title: \_\_\_\_\_

DRAFT



**EXHIBIT “A”  
DRAFT  
SCOPE OF WORK**

SANBAG and/or SANBAG On-Call Consultants (collectively, SANBAG STAFF) can make available a variety of Project Development and/or Construction Management services which Victor Valley Transit Authority (VVTA) may need in the future. The following discussion is just an example of the type of such services SANBAG STAFF may be able to provide under this MOU.

Victor Valley Transit Authority needs to develop new or expanded operations and maintenance facilities for the Barstow Area Transit service area and/or new transit centers (the “Projects”) to support its on-going transit services. SANBAG STAFF can provide support to VVTA to advance the Projects. The following discussion provides a high-level description of the potential services SANBAG STAFF can supply to VVTA. More detailed scope of work elements will be discussed and agreed to between the Parties.

SANBAG staff will provide project planning and development support leading to eventual project design and construction management services. Key elements may include:

**Task 1: Needs Assessment**

SANBAG STAFF will support VVTA in conducting a needs assessment of VVTA's current and anticipated operating and maintenance facility requirements over the next 20 years for the Barstow area. Considerations will include current and future levels of transit service, types and sizes of vehicles to be operated, vehicle fueling now and in the future, and relative distances of prospective operating facilities from the start/end points of current and future services. VVTA in cooperation with the City of Barstow has identified a site for the maintenance facility project.

**Task 2: Space Evaluation**

Based on the findings from the needs assessment, SANBAG STAFF will develop a space requirements plan for the facility, so as to identify the approximate property requirements.

**Task 3: Site Search and Evaluation**

Based on the findings from Tasks 1 and 2, SANBAG STAFF and specialty land use consultants will work with VVTA to conduct an evaluation of the prospective site for a new operating facility. Property acquisition cost estimates will be developed. SANBAG STAFF will assist VVTA with notifications to Federal Transit Administration and any other agencies which may require notification due to funding sources. With FTA/funding agency concurrence, and depending on the number of sites and their availability, SANBAG STAFF/speciality consultants may work to obtain purchase options for select sites in order to lock them in for a set time-period while project development continues.

**Task 4: Site Selection and Project Development**

Once the preferred site(s) has been identified, SANBAG STAFF will provide site-specific project development, including general facility arrangements, building layouts, equipment locations and functions, and estimated construction costs to develop the Project. Upon confirmation of the site acquisition and general facility plans, Project Development will continue through final design.

**Task 5: Project Construction**

SANBAG Staff will provide project and construction management services, including assistance in assembling construction bid packages, conducting construction procurement, and managing the construction process and facility acceptance processes leading to a completed Project.

DRAFT

**EXHIBIT "B"**  
**SANBAG BILLING RATE SCHEDULE AND OTHER DIRECT COSTS**  
**FOR PROJECT DEVELOPMENT / CONSTRUCTION MANAGEMENT /**  
**ENGINEERING SERVICES FOR VVTA PROJECT**

SANBAG Staff and/or On-Call Consultants likely to be assigned to Project, may include:

Position	Fully Burdened Hourly Rate*	Not-to-Exceed Hours	Total Costs
TBD based on further discussions of agency needs			
<b>Subtotal</b>			

\*These rates are based on current SANBAG budgeted rates for fully burdened employees and On Call Consultants. Hourly rates are subject to change over time based on employee salary and benefit increases as well as Consultant contract costs.

Other Direct Costs anticipated during the course of Project, may include but not be limited to:

Expense Category	Units	Cost	Line Item Costs
Miles			
Travel			
Printing/shipping/postage			
<b>Subtotal</b>			

<b>Grand Total Project Costs</b>	
----------------------------------	--

**COOPERATIVE AGREEMENT NO XXX**  
**BY AND BETWEEN SAN BERNARDINO ASSOCIATED GOVERNMENTS**  
**AND**  
**MOUNTAIN AREA REGIONAL TRANSIT AUTHORITY**  
**FOR**  
**TEMPORARY FURNISHING OF STAFF ASSISTANCE FOR PROJECT**  
**DEVELOPMENT, DESIGN, AND CONSTRUCTION MANAGEMENT**

**THIS COOPERATIVE AGREEMENT** (“Agreement”) is effective on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the San Bernardino Associated Governments/San Bernardino Transportation Authority (“SANBAG”), whose address is 1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor, San Bernardino, California 92410-1715, and Mountain Area Regional Transit Authority (“MT”), a public agency formed under a Joint Powers Agreement, whose address is 41939 Fox Farm Road, Big Bear Lake, California, 92315. SANBAG and MT are each a “Party” and collectively are the “Parties” as identified herein.

**RECITALS:**

**WHEREAS**, SANBAG, as the County Transportation Commission and the San Bernardino County Transportation Authority for San Bernardino County, has the responsibility to oversee and coordinate the provision of public transportation services and allocation of local, state and Federal funds for the County; and

**WHEREAS**, MT provides Dial-a-Ride and Fixed Route public transportation service throughout the rural San Bernardino Mountain communities of the Big Bear Valley, Crestline, Lake Arrowhead, and Running Springs. Mountain Transit also provides Off-the-Mountain commuter service between these communities and the city of San Bernardino; and

**WHEREAS**, MT needs new or expanded operating facilities to support its public transit service operations and maintenance (the “Project”), and is in need of project development/ management/engineering support services; and

**WHEREAS**, SANBAG has certain project development/ management/engineering Staff and/or On-Call Consultants under Contract (collectively referred to as SANBAG STAFF) that are or can become available to assist MT;

**NOW, THEREFORE**, SANBAG and MT in consideration of the mutual covenants hereinafter set forth and intending to be legally bound hereby agree as follows:

**1. Project Management Responsibilities**

- a. Overall Project Management Responsibility for the Project as identified in Exhibit “A” Scope of Work shall remain with MT.
- b. MT’s Project Manager or his/her designee shall provide direction to SANBAG STAFF assisting MT on the Project as identified in Exhibit “A” Scope of Work.

## 2. SANBAG Responsibilities

- a. SANBAG shall provide project development / management / engineering support services through a combination of SANBAG STAFF, to MT, for support of the Project as identified in Exhibit "A" Scope of Work.
- b. The total not-to-exceed cost for services provided in Exhibit "A" to be reimbursed to SANBAG under this AGREEMENT shall not exceed \$ [REDACTED] over the term of this AGREEMENT, unless subsequently amended by mutual agreement of the Parties. The specific SANBAG STAFF positions, their rates and estimated Other Direct Costs are identified in Exhibit "B" SANBAG Billing Rate Schedule.
- c. SANBAG STAFF selected for this assignment shall be selected by SANBAG with the review and concurrence of the MT, and are subject to change. SANBAG shall endeavor to make the SANBAG STAFF selected for services provided on the Project available for a minimum of XX months.
- d. SANBAG STAFF will recognize and follow all applicable rules, regulations or policies established by MT affecting or pertaining to operation of the Project site, when SANBAG STAFF are performing services.
- e. SANBAG STAFF shall work as needed per Exhibit "A" Scope of Work, but not to exceed a forty (40) hour workweek and shall be on the same schedule as SANBAG's regular employees unless other work schedule arrangements are agreed in writing.
- f. SANBAG STAFF working on the Project shall acknowledge that certain confidential or proprietary information belonging to MT may become available to them, and as such, shall maintain such confidentiality.
- g. SANBAG STAFF are assigned to MT only for the purposes and to the extent set forth in this Agreement. SANBAG STAFF'S relationship to MT and its subsidiaries and clients shall during the period of this assignment and services hereunder be that of a SANBAG employee or independent consultant, as applicable, working in a professional manner. SANBAG STAFF shall not be considered as having an employee status with MT or being entitled to participate in any plans or benefits of MT for its regular employees. SANBAG assumes full responsibility for all employment contributions, taxes, withholding, etc, under any state and local laws, as applicable.
- h. SANBAG shall invoice MT no more frequently than monthly, and no less than quarterly for the services provided for that period, based on actual hours worked and using the fully-burdened hourly rates for direct employees, and the approved hourly billing rates for assigned consultant staff. Such fully-burdened hourly rates shall be specific to each position type, will be disclosed to MT in advance, and will be consistent with the labor rate in Exhibit "B". SANBAG'S fully-burdened employee hourly rates shall include employee labor rates, fringe, benefits and overhead items such as workers' compensation, insurance, computers, office space and phone. For SANBAG On-Call Consultants assigned to the Project, SANBAG shall invoice MT the amount so billed from the On-Call Consultants during the invoice period. With each invoice, SANBAG shall also identify any actual Project-related administrative, travel and other direct costs incurred by SANBAG STAFF in managing MT's project. Mileage shall be billed based on the current,

approved Internal Revenue Service rate. However, SANBAG shall not apply a flat administrative fee or percentage.

### **3. MT Responsibilities**

- a. MT shall direct and control the work activities of the SANBAG STAFF on the project work described herein, and shall be responsible for providing a safe place to work in compliance with all safety laws and regulations while working at MT-designated work site(s). MT is not responsible for the health or safety of any SANBAG STAFF due to injuries or property damage caused by others not within the control of MT at any Project site.
- b. MT shall furnish SANBAG STAFF a copy of applicable rules, regulations and policies that MT deems necessary to implement the provisions in Section 2.d above.
- c. MT strictly agrees that it shall not induce, passively or actively solicit, approach or hire any of the SANBAG STAFF so long as this agreement is in effect and for a period of one (1) year thereafter except if mutually agreed in writing by SANBAG, MT, and, if applicable, on-call consultants under contract, on a case by case basis.
- d. Upon receipt of the SANBAG invoice, MT shall approve and make prompt payment on all invoices or explain in writing to the SANBAG Contact identified in Section 8 below (or designee), the reason for disapproval of any item within 10 business days of receipt. MT payment for undisputed invoice amounts shall be made within 30 days of receipt of invoice.

### **4. SANBAG and MT Joint Responsibilities**

- a. If SANBAG STAFF is deemed by MT or SANBAG to be unqualified to perform the assignment contracted for, MT may request the removal and/or replacement of the SANBAG STAFF.
- b. Overtime hours shall be defined by SANBAG and approved by MT, and SANBAG STAFF shall not be directed by MT to work Overtime hours, unless agreed to in writing by both Parties.

### **5. Indemnification**

- a. Neither SANBAG nor any officer or employee or agent thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by MT and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon MT under this Agreement. It is understood and agreed that MT will fully defend, indemnify, and save harmless SANBAG and all of its officers, employees and agents from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by MT and/or its agents under this Agreement.
- b. Neither MT nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by SANBAG and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon SANBAG under this Agreement. It is understood and agreed that SANBAG will fully defend, indemnify, and save harmless MT

and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by SANBAG and/or its agents under this Agreement.

6. **Venue.** This AGREEMENT shall be construed and interpreted solely in accordance with the laws of the State of California.
7. **Binding Provisions.** The persons executing this AGREEMENT on behalf of the Parties hereto warrant that they are duly authorized to execute this AGREEMENT on behalf of said Parties and that, by so executing this AGREEMENT, the Parties hereto are formally bound to the provisions of this AGREEMENT.
8. **Notices.** All notices hereunder and communications required or permitted by this AGREEMENT, or changes thereto, or by law to be served on, given to or delivered to any other Party hereto by any other Party to this AGREEMENT shall be in writing or authorized in writing, and may be sent by regular mail, email or FAX. Any such notice shall be addressed to:

**Notices to SANBAG:**

Name: Raymond W. Wolfe  
Title: Executive Director  
Address: 1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor  
City, State Zip: San Bernardino, California, 92410  
Email: [rwolfe@sanbag.ca.gov](mailto:rwolfe@sanbag.ca.gov)  
FAX: 909-885-4407

**Notices to the MT:**

Name: Ms. Kathy Hawksford  
Title: General Manager/Chief Executive Officer  
Physical Address: 41939 Fox Farm Road  
Mailing Address: PO Box 1501  
City, State Zip: Big Bear Lake, California, 92315  
Email: [khawksford@mountaintransit.org](mailto:khawksford@mountaintransit.org)  
FAX: 909-963-7200

9. **Other Provisions.**
  - a. The headings of all sections of this AGREEMENT are inserted solely for the convenience of reference and are not part of and not intended to govern, limit, or aid in the construction or interpretation of any terms or provision thereof.
  - b. The provision of this AGREEMENT shall bind and inure to the benefit of each of the Parties hereto and all successors or assigns of the Parties hereto.
  - c. If any term, provision, covenant, or condition of this AGREEMENT is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder to this AGREEMENT shall not be affected thereby, and each term, provision, covenant or condition of this AGREEMENT shall be valid and enforceable to the fullest extent permitted by law.

- d. This AGREEMENT may be executed and delivered in any number of counterparts, each of which, when executed and delivered shall be deemed an original and all of which together shall constitute the same AGREEMENT. Secure electronic signatures will be permitted.
- e. This AGREEMENT may be amended in writing at any time by the mutual consent of the Parties. No amendment shall have any force or effect unless executed in writing by the Parties. The Parties agree that minor administrative changes, such as changes in assigned staff, modifications to scope-of-work elements, etc., may be approved administratively without re-approval by the Agencies' Boards of Directors.
- f. SANBAG or MT may terminate this AGREEMENT, without cause, by delivering written notice of termination to the other Party not less than thirty (30) calendar days before the date of termination. In the event that services are underway at the time such notice of termination is issued, SANBAG and its on-call consultants, if assigned to the project, shall follow the termination provisions of the on-call contracts and any outstanding services up to the date of termination shall be paid for in accordance with AGREEMENT terms before termination of this AGREEMENT shall be complete.
- g. Neither this AGREEMENT, nor any of a Party's rights, obligations or duties hereunder may be assigned in whole or in part by either Party without the prior written consent of the other Party. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.
- h. The Parties warrant that, in the performance of this AGREEMENT, they shall comply with all applicable federal, state and local laws, statutes and ordinances and lawful orders, rules and regulations promulgated thereunder.
- i. Either Party shall be excused from performing its obligations under this AGREEMENT during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood, acts of God, commandeering of material, products, plants or facilities by the federal, state or local government, national fuel shortage, or a material act or omission by the other Party, when satisfactory evidence of such cause is presented to the other Party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the Party not performing.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first above written.



**San Bernardino Associated Governments**

**Mountain Transit**

By: \_\_\_\_\_  
Raymond W. Wolfe  
Executive Director

By: \_\_\_\_\_  
Kathy Hawksford  
General Manager/CEO

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

APPROVED AS TO FORM:

APPROVED AS TO FORM:

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

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

Name/Title: \_\_\_\_\_

Name/Title: \_\_\_\_\_

DRAFT

**EXHIBIT “A”  
DRAFT  
SCOPE OF WORK**

Mountain Transit needs to develop new or expanded operations and maintenance facilities at its Big Bear Lake and Crestline locations (the “Project”) to support its on-going transit services. SANBAG staff or on-call consultants (collectively, “SANBAG STAFF”) will provide support to MT to advance the Project. The following discussion provides a high-level description of the services SANBAG STAFF will supply to MT. More detailed scope of work elements will be discussed and agreed to between the Parties. It is anticipated that the Project will occur over a multi-year timeframe based on phased funding availability.

SANBAG staff will provide project planning and development support leading to eventual project design and construction management services. Key elements include:

**Task 1: Needs Assessment**

SANBAG STAFF will support MT in conducting a needs assessment of MT’s current and anticipated operating and maintenance facility requirements over the next 20 years for the Big Bear Lake area and Crestline area facilities. Considerations will include current and future levels of transit service, types and sizes of vehicles to be operated, vehicle fueling now and in the future, and relative distances of prospective operating facilities from the start/end points of current and future services.

**Task 2: Space Evaluation**

Based on the findings from the needs assessment, SANBAG STAFF will develop a space requirements plan for both facilities, so as to identify the approximate property requirements. SANBAG STAFF will evaluate whether either of the current facility properties has sufficient space to support the long term service requirements.

**Task 3: Site Search and Evaluation**

Based on the findings from Tasks 1 and 2, SANBAG STAFF and specialty land use consultants will work with MT to conduct a site search for and evaluation of prospective sites for new or expanded operating facilities. Property acquisition cost estimates will be developed. SANBAG STAFF will assist MT with notifications to Federal Transit Administration and any other agencies which may require notification due to funding sources. With FTA/funding agency concurrence, and depending on the number of sites and their availability, SANBAG STAFF/specialty consultants may work to obtain purchase options for select sites in order to lock them in for a set time-period while project development continues.

**Task 4: Site Selection and Project Development**

Once the preferred site(s) has been identified, SANBAG STAFF will provide site-specific project development, including general facility arrangements, building layouts, equipment locations and functions, and estimated construction costs to develop the Project. Upon confirmation of the site acquisition and general facility plans, Project Development will continue through final design.

**Task 5: Project Construction**

SANBAG Staff will provide project and construction management services, including assistance in assembling construction bid packages, conducting construction procurement, and managing the construction process and facility acceptance processes leading to a completed Project.

DRAFT

**EXHIBIT "B"**  
**SANBAG BILLING RATE SCHEDULE AND OTHER DIRECT COSTS**  
**FOR PROJECT DEVELOPMENT / CONSTRUCTION MANAGEMENT /**  
**ENGINEERING SERVICES FOR MT PROJECT**

SANBAG Staff and/or On-Call Consultants likely to be assigned to Project, may include:

Position	Fully Burdened Hourly Rate*	Not-to-Exceed Hours	Total Costs
TBD based on further discussions of agency needs			
<b>Subtotal</b>			

\*These rates are based on current SANBAG budgeted rates for fully burdened employees and On Call Consultants. Hourly rates are subject to change over time based on employee salary and benefit increases as well as Consultant contract costs.

Other Direct Costs anticipated during the course of Project, may include but not be limited to:

Expense Category	Units	Cost	Line Item Costs
Miles			
Travel			
Printing/shipping/postage			
<b>Subtotal</b>			

<b>Grand Total Project Costs</b>	
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**COOPERATIVE AGREEMENT NO XXX**  
**BY AND BETWEEN SAN BERNARDINO ASSOCIATED GOVERNMENTS**  
**AND**  
**MORONGO BASIN TRANSIT AUTHORITY**  
**FOR**  
**TEMPORARY FURNISHING OF STAFF ASSISTANCE FOR PROJECT**  
**DEVELOPMENT, DESIGN, AND CONSTRUCTION MANAGEMENT**

**THIS COOPERATIVE AGREEMENT** (“Agreement”) is effective on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the San Bernardino Associated Governments/San Bernardino Transportation Authority (“SANBAG”), whose address is 1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor, San Bernardino, California 92410-1715, and Morongo Basin Transit Authority (“MBTA”), a public agency formed under a Joint Powers Agreement, whose address is 62405 Verbena Road, Joshua Tree, California, 92252. SANBAG and MBTA are each a “Party” and collectively are the “Parties” as identified herein.

**RECITALS:**

**WHEREAS**, SANBAG, as the County Transportation Commission and the San Bernardino County Transportation Authority for San Bernardino County, has the responsibility to oversee and coordinate the provision of public transportation services and allocation of local, state and Federal funds for the County; and

**WHEREAS**, MBTA provides Dial-a-Ride, Fixed-Route, and Deviated Fixed-Route public transportation service in ten communities of San Bernardino County including Joshua Tree, Twentynine Palms, Yucca Valley, Morongo Valley, and Landers. MBTA also provides commuter and weekend service between Twentynine Palms Marine Corps Base and Palm Springs, California; and

**WHEREAS**, MBTA anticipates the need for new or expanded operating facilities and/or transit centers to support its public transit service operations (the “Projects”), and is in need of on-call project development/ management/engineering support services; and

**WHEREAS**, SANBAG has certain project development/ management/engineering Staff and/or On-Call Consultants under Contract (collectively referred to as SANBAG STAFF) that are or can become available to assist MBTA; and

**NOW, THEREFORE**, SANBAG and MBTA in consideration of the mutual covenants hereinafter set forth and intending to be legally bound hereby agree as follows:

**1. Project Management Responsibilities**

- a. Overall Project Management Responsibility for the Projects as identified in Exhibit “A” Scope of Work shall remain with MBTA.
- b. MBTA’s Project Manager or his/her designee shall provide direction to SANBAG STAFF assisting MBTA on the Projects as identified in Exhibit “A” Scope of Work.

## 2. SANBAG Responsibilities

- a. SANBAG shall provide project development / management / engineering support services through a combination of SANBAG STAFF, to MBTA, for support of the Projects as identified in Exhibit "A" Scope of Work.
- b. The total not-to-exceed cost for services provided in Exhibit "A" to be reimbursed to SANBAG under this AGREEMENT shall not exceed \$ \_\_\_\_\_ over the term of this AGREEMENT, unless subsequently amended by mutual agreement of the Parties. The specific SANBAG STAFF positions, their rates and estimated Other Direct Costs are identified in Exhibit "B" SANBAG Billing Rate Schedule.
- c. SANBAG STAFF selected for this assignment shall be selected by SANBAG with the review and concurrence of the MBTA, and are subject to change. SANBAG shall endeavor to make the SANBAG STAFF selected for services provided on the Project available for a minimum of XX months.
- d. SANBAG STAFF will recognize and follow all applicable rules, regulations or policies established by MBTA affecting or pertaining to operation of the Project site(s), when SANBAG STAFF are performing services.
- e. SANBAG STAFF shall work as needed per Exhibit "A" Scope of Work, but not to exceed a forty (40) hour workweek and shall be on the same schedule as SANBAG's regular employees unless other work schedule arrangements are agreed in writing.
- f. SANBAG STAFF working on the Projects shall acknowledge that certain confidential or proprietary information belonging to MBTA may become available to them, and as such, shall maintain such confidentiality.
- g. SANBAG STAFF are assigned to MBTA only for the purposes and to the extent set forth in this Agreement. SANBAG STAFF'S relationship to MBTA and its subsidiaries and clients shall during the period of this assignment and services hereunder be that of a SANBAG employee or independent consultant, as applicable, working in a professional manner. SANBAG STAFF shall not be considered as having an employee status with MBTA or being entitled to participate in any plans or benefits of MBTA for its regular employees. SANBAG assumes full responsibility for all employment contributions, taxes, withholding, etc, under any state and local laws, as applicable.
- h. SANBAG shall invoice MBTA no more frequently than monthly, and no less than quarterly for the services provided for that period, based on actual hours worked and using the fully-burdened hourly rates for direct employees, and the approved hourly billing rates for assigned consultant staff. Such fully-burdened hourly rates shall be specific to each position type, will be disclosed to MBTA in advance, and will be consistent with the labor rate in Exhibit "B". SANBAG'S fully-burdened employee hourly rates shall include employee labor rates, fringe, benefits and overhead items such as workers' compensation, insurance, computers, office space and phone. For SANBAG On-Call Consultants assigned to the Project, SANBAG shall invoice MBTA the amount so billed from the On-Call Consultants during the invoice period. With each invoice, SANBAG shall also identify any actual Project-related administrative, travel and other direct costs incurred by SANBAG STAFF in

managing MBTA's project. Mileage shall be billed based on the current, approved Internal Revenue Service rate. However, SANBAG shall not apply a flat administrative fee or percentage.

### **3. MBTA Responsibilities**

- a. MBTA shall direct and control the work activities of the SANBAG STAFF on Project work described herein, and shall be responsible for providing a safe place to work in compliance with all safety laws and regulations while working at MBTA-designated work site(s). MBTA is not responsible for the health or safety of any SANBAG STAFF due to injuries or property damage caused by others not within the control of MBTA at any Project site.
- b. MBTA shall furnish SANBAG STAFF a copy of applicable rules, regulations and policies that MBTA deems necessary to implement the provisions in Section 2.d above.
- c. MBTA strictly agrees that it shall not induce, passively or actively solicit, approach or hire any of the SANBAG STAFF so long as this agreement is in effect and for a period of one (1) year thereafter except if mutually agreed in writing by SANBAG, MBTA, and, if applicable, on-call consultants under contract, on a case by case basis.
- d. Upon receipt of the SANBAG invoice, MBTA shall approve and make prompt payment on all invoices or explain in writing to the SANBAG Contact identified in Section 8 below (or designee), the reason for disapproval of any item within 10 business days of receipt. MBTA payment for undisputed invoice amounts shall be made within 30 days of receipt of invoice.

### **4. SANBAG and MBTA Joint Responsibilities and Understandings**

- a. If SANBAG STAFF is deemed by MBTA or SANBAG to be unqualified to perform the assignment contracted for, MBTA may request the removal and/or replacement of the SANBAG STAFF.
- b. Overtime hours shall be defined by SANBAG and approved by MBTA, and SANBAG STAFF shall not be directed by MBTA to work Overtime hours, unless agreed to in writing by both Parties.
- c. MBTA has the unilateral right to continue using services from its own contract engineer or firms selected through a competitive bidding process conducted by MBTA. SANBAG staff or on-call consultants (collectively, "SANBAG STAFF") will provide support as requested to MBTA to advance the Project. Exhibit "A", Scope of Work, provides a high-level description of the services SANBAG STAFF will supply to MBTA. More detailed scope of work elements will be discussed and agreed to between the Parties.

### **5. Indemnification**

- a. To the fullest extent permitted by law, MBTA shall protect, indemnify, defend and hold harmless SANBAG and any and all of its officials, employees, volunteers, and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, and costs and expenses (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest,

defense costs, and expert witness fees) where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the negligence, recklessness, or willful misconduct of MBTA, its officers, agents, employees or subconsultants, or any entity or individual that MBTA shall bear the legal liability thereof.

b. To the fullest extent permitted by law, SANBAG shall protect, indemnify, defend and hold harmless MBTA and any and all of its officials, employees, volunteers, and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, and costs and expenses (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees) where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the negligence, recklessness, or willful misconduct of SANBAG, its officers, agents, employees or subconsultants, or any entity or individual that SANBAG shall bear the legal liability thereof.

6. **Venue.** This AGREEMENT shall be construed and interpreted solely in accordance with the laws of the State of California.
7. **Binding Provisions.** The persons executing this AGREEMENT on behalf of the Parties hereto warrant that they are duly authorized to execute this AGREEMENT on behalf of said Parties and that, by so executing this AGREEMENT, the Parties hereto are formally bound to the provisions of this AGREEMENT.
8. **Notices.** All notices hereunder and communications required or permitted by this AGREEMENT, or changes thereto, or by law to be served on, given to or delivered to any other Party hereto by any other Party to this AGREEMENT shall be in writing or authorized in writing, and may be sent by regular mail, email or FAX. Any such notice shall be addressed to:

**Notices to SANBAG:**

Name: Raymond W. Wolfe  
Title: Executive Director  
Address: 1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor  
City, State Zip: San Bernardino, California, 92410  
Email: [rwolfe@sanbag.ca.gov](mailto:rwolfe@sanbag.ca.gov)  
FAX: 909-885-4407

**Notices to the MBTA:**

Name: Mark Goodale  
Title: General Manager  
Physical Address: 62405 Verbena Road  
City, State Zip: Joshua Tree, California, 92252  
Email: [mark@mbtabus.com](mailto:mark@mbtabus.com)  
FAX: 760-366-2445



## 9. Other Provisions.

- a. The headings of all sections of this AGREEMENT are inserted solely for the convenience of reference and are not part of and not intended to govern, limit, or aid in the construction or interpretation of any terms or provision thereof.
- b. The provision of this AGREEMENT shall bind and inure to the benefit of each of the Parties hereto and all successors or assigns of the Parties hereto.
- c. If any term, provision, covenant, or condition of this AGREEMENT is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder to this AGREEMENT shall not be affected thereby, and each term, provision, covenant or condition of this AGREEMENT shall be valid and enforceable to the fullest extent permitted by law.
- d. This AGREEMENT may be executed and delivered in any number of counterparts, each of which, when executed and delivered shall be deemed an original and all of which together shall constitute the same AGREEMENT. Secure electronic signatures will be permitted.
- e. This AGREEMENT may be amended in writing at any time by the mutual consent of the Parties. No amendment shall have any force or effect unless executed in writing by the Parties. The Parties agree that minor administrative changes, such as changes in assigned staff, modifications to scope-of-work elements, etc., may be approved administratively without re-approval by the Agencies' Boards of Directors.
- f. SANBAG or MBTA may terminate this AGREEMENT, without cause, by delivering written notice of termination to the other Party not less than thirty (30) calendar days before the date of termination. In the event that services are underway at the time such notice of termination is issued, SANBAG and its on-call consultants, if assigned to the project, shall follow the termination provisions of the on-call contracts and any outstanding services up to the date of termination shall be paid for in accordance with AGREEMENT terms before termination of this AGREEMENT shall be complete.
- g. Neither this AGREEMENT, nor any of a Party's rights, obligations or duties hereunder may be assigned in whole or in part by either Party without the prior written consent of the other Party. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.
- h. The Parties warrant that, in the performance of this AGREEMENT, they shall comply with all applicable federal, state and local laws, statutes and ordinances and lawful orders, rules and regulations promulgated thereunder.
- i. Either Party shall be excused from performing its obligations under this AGREEMENT during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood, acts of God, commandeering of material, products, plants or facilities by the federal, state or local government, national fuel shortage, or a material act or omission by the other Party, when satisfactory evidence of such cause is presented to the other Party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the Party not performing.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first above written.

**San Bernardino Associated Governments**

**Morongo Basin Transit Authority**

By: \_\_\_\_\_  
Raymond W. Wolfe  
Executive Director

By: \_\_\_\_\_  
Mark Goodale  
General Manager

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

APPROVED AS TO FORM:

APPROVED AS TO FORM:

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

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

Name/Title: \_\_\_\_\_

Name/Title: \_\_\_\_\_

**EXHIBIT “A”  
DRAFT  
SCOPE OF WORK**

Morongo Basin Transit Authority (MBTA) has a need for on-call project planning, development and construction management services for future (to be determined) transit operating facility or transit center projects (the “Projects”). SANBAG staff or on-call consultants (collectively, “SANBAG STAFF”) can provide support to MBTA to advance the Project. The following discussion provides a high-level description of the potential services SANBAG STAFF can supply to MBTA. More detailed scope of work elements will be discussed and agreed to between the Parties.

SANBAG staff can provide project planning and development support leading to eventual project design and construction management services. Key elements include:

**Task 1: Needs Assessment**

SANBAG STAFF can support MBTA in conducting a needs assessment of MBTA’s current or anticipated operating facility or transit center needs. Considerations may include current and future levels of transit service, types and sizes of vehicles to be operated, vehicle fueling now and in the future, and relative distances of prospective operating facilities from the start/end points of current and future services.

**Task 2: Space Evaluation**

If needed, based on the findings from the needs assessment, SANBAG STAFF can develop a space requirements plan for the facility, so as to identify the approximate property requirements.

**Task 3: Site Search and Evaluation**

If needed, based on the findings from Tasks 1 and 2, SANBAG STAFF and specialty land use consultants can work with MBTA to conduct a site search for and evaluation of prospective sites for new facilities. Property acquisition cost estimates can be developed.

**Task 4: Site Selection and Project Development**

If needed, once the preferred site(s) has been identified, SANBAG STAFF can provide site-specific project development, including general facility arrangements, building layouts, equipment locations and functions, and estimated construction costs to develop the Projects. Upon confirmation of the site acquisition and general facility plans, Project Development can continue through final design.

**Task 5: Project Construction**

SANBAG Staff can provide project and construction management services, including assistance in assembling construction bid packages, conducting construction procurement, and managing the construction process and facility acceptance processes leading to a completed Project.

**EXHIBIT "B"**  
**SANBAG BILLING RATE SCHEDULE AND OTHER DIRECT COSTS**  
**FOR PROJECT DEVELOPMENT / CONSTRUCTION MANAGEMENT /**  
**ENGINEERING SERVICES FOR MBTA PROJECT**

SANBAG Staff and/or On-Call Consultants likely to be assigned to Project, may include:

<b>Position</b>	<b>Fully Burdened Hourly Rate*</b>	<b>Not-to-Exceed Hours</b>	<b>Total Costs</b>
TBD based on further discussions of agency needs			
<b>Subtotal</b>			

\*These rates are based on current SANBAG budgeted rates for fully burdened employees and On Call Consultants. Hourly rates are subject to change over time based on employee salary and benefit increases as well as Consultant contract costs.

Other Direct Costs anticipated during the course of Project, may include but not be limited to:

<b>Expense Category</b>	<b>Units</b>	<b>Cost</b>	<b>Line Item Costs</b>
Miles			
Travel			
Printing/shipping/postage			
<b>Subtotal</b>			
<b>Grand Total Project Costs</b>			

## Appendix F – Draft Agreements/MOUs

### Mutual Aid

**MEMORANDUM OF UNDERSTANDING**  
**Between**  
**OMNITRANS**  
**And**  
**VICTOR VALLEY TRANSIT AUTHORITY**  
**For**  
**MUTUAL AID**

**This Memorandum of Understanding** (“MOU”) is effective on the Effective Date as defined herein, by and between Omnitrans (“OMNITRANS”), a public agency formed under a Joint Powers Agreement, whose address is 1700 West Fifth St., San Bernardino, California, 92411, and Victor Valley Transit Authority (“VVTA”) whose address is address, 17150 Smoketree St., Hesperia, California, 92345. OMNITRANS and VVTA are each a “Party” and collectively the “Parties” as identified herein.

**RECITALS:**

**WHEREAS**, VVTA provides service that overlaps with the OMNITRANS service area and, should mutual aid be requested, it may be more timely and more cost-effective for OMNITRANS to respond to the incident; and

**WHEREAS**, the Parties desire to establish a mutual understanding to provide for OMNITRANS assistance should VVTA experience a service interruption during the course of service provision in the OMNITRANS service area; and

**WHEREAS**, OMNITRANS agrees to assist upon request and if manpower and equipment resources are available; and

**WHEREAS**, OMNITRANS shall place a high priority on responding to service disruptions which occur on VVTA routes within OMNITRANS service areas, so long as such assistance does not negatively impact OMNITRANS’ own transit operations; and

**WHEREAS**, this MOU shall supersede any and all previous Mutual Aid service agreements between OMNITRANS and VVTA.

**NOW, THEREFORE**, OMNITRANS and VVTA in consideration of the mutual covenants hereinafter set forth and intending to be legally bound hereby agree as follows:

1. **Complete Agreement.** This MOU, including any exhibits and documents incorporated herein and made applicable by reference, constitutes the complete and exclusive statement of the terms and conditions of the MOU between OMNITRANS and VVTA, concerning the services provided, and supersedes all prior representations, understandings, and communications between the parties. The above-referenced Recitals are true and correct and are incorporated by reference herein.
2. **OMNITRANS Responsibilities.** OMNITRANS agrees to the following responsibilities for services provided:

- a. Services (“SERVICES”) may include, but are not limited to, the temporary provision of OMNITRANS’ labor and/or contractors, installation of temporary signage, equipment including rolling stock, transit supervisor assistance/investigation services, coach operator services, maintenance services, tow services, bus storage, parts, and/or fuel. The services provided by Omnitrans under this MOU have a not-to-exceed amount of \$25,000 for the duration of this MOU. The Amount shall not be exceeded unless amended in writing by the mutual consent of the Parties.
  - b. OMNITRANS shall perform SERVICES upon request by VVTA, to the extent that OMNITRANS’ manpower and equipment are available and such services’ provision does not interfere with OMNITRANS’ own service provision.
  - c. OMNITRANS will promptly notify VVTA as soon as it is aware that its manpower and/or equipment will not be available to respond to the VVTA service interruption or request.
  - d. OMNITRANS shall submit an invoice to VVTA for SERVICES provided, by no later than the last day of the month following the month that SERVICES were provided. Each Invoice shall specify the total hours by position or service type provided, as well as any other direct costs attributed to the SERVICE provision. The invoice shall be based on the hourly rates and direct expenses identified in **Exhibit “A”**, Rate Schedule. OMNITRANS has the right to update the rate schedule in Exhibit “A” each year with written notice to VVTA
  - e. OMNITRANS is acting as an independent contractor under this MOU and shall pay all wages, salaries, and other amounts due to their own personnel in connection with any and all SERVICES provided under this MOU, as well as that which may be required by law. OMNITRANS shall be responsible for all reports and obligations respecting their own personnel, including, but not limited to social security taxes, income tax withholding, unemployment insurance, benefits and workers compensation insurance. OMNITRANS shall have exclusive control over its employees and VVTA shall not have any authority to direct or control employees of OMNITRANS. OMNITRANS’ employees or agents shall not be deemed VVTA employees or agents for any purpose.
  - f. OMNITRANS agrees to indemnify, defend and hold harmless VVTA, its member agencies, officers, directors, employees, and agents from and against any and all claims, liabilities, and actions whether legal, equitable or administrative, and costs and expenses (including attorney's fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage to or loss of use of property caused by the negligent acts, omissions, or willful misconduct by OMNITRANS, its officers, directors, employees, or agents in connection with or arising out of the performance of services under this MOU. This obligation shall not apply to negligent acts, omissions or willful misconduct of VVTA, its officers, directors, employees, or agents.
3. **VVTA Responsibilities.** VVTA agrees to the following responsibilities for services provided:
- a. VVTA management shall make a formal request for the specific OMNITRANS’ SERVICES by calling the OMNITRANS Dispatcher at the telephone numbers listed in **Exhibit “B”**, Mutual Aid Contact Information and Procedures, attached. OMNITRANS will make available the OMNITRANS Dispatcher Monday through Saturday 0300 to 2345, Sunday 0400 to 2030 with the exception of our closed holidays.

- b. OMNITRANS Dispatcher on duty shall have the authority to approve each VVTA SERVICE request.
  - c. Complete and accurate invoices submitted by OMNITRANS shall be paid by VVTA within thirty (30) days of receipt.
  - d. VVTA agrees to indemnify, defend and hold harmless OMNITRANS, its member agencies, officers, directors, employees, and agents from and against any and all claims, liabilities, and actions whether legal, equitable or administrative, and costs and expenses (including attorney's fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage to or loss of use of property caused by the negligent acts, omissions, or willful misconduct by VVTA, its officers, directors, employees, or agents in connection with or arising out of the performance of this MOU. This obligation shall not apply to negligent acts, omissions or willful misconduct of OMNITRANS, its officers, directors, employees, or agents.
4. **The Parties Mutually Understand and Agree** to the following mutual responsibilities regarding the SERVICE:
- a. This MOU shall commence upon execution by the Parties, and shall continue in full force unless terminated as provided in this MOU.
  - b. This MOU may be amended in writing at any time by the mutual consent of the Parties. No amendment shall have any force or effect unless executed in writing by the Parties. The Parties agree that non-financial administrative changes, such as changes in key personnel, emergency response procedures, etc., may be approved administratively without re-approval by the Agencies' Boards of Directors.
  - c. OMNITRANS or VVTA may terminate this MOU, without cause, by delivering written notice of termination to the other Party not less than thirty (30) calendar days before the date of termination.
  - d. The persons executing this MOU on behalf of the parties hereto warrant that they are duly authorized to execute this MOU on behalf of said parties and that, by so executing this MOU, the parties hereto are formally bound to the provisions of this MOU.
  - e. All notices hereunder and communications required or permitted by this MOU, or changes thereto, or by law to be served on, given to or delivered to any other Party hereto by any other Party to this MOU shall be in writing or authorized in writing, and may be sent by regular mail, email or FAX. Any such notice shall be addressed to:

Notices to OMNITRANS:

Name:	Mr. Scott Graham
Title:	Chief Executive Officer/General Manager
Address:	1700 West Fifth St.
City, State Zip:	San Bernardino, California, 92411
Email:	Scott.Graham@omnitrans.org
FAX:	909-889-5779



Notices to VVTA:

Name: Mr. Kevin Kane  
Title: Executive Director  
Address: 17150 Smoketree St  
City, State Zip: Hesperia, California, 92345  
Email: kkane@vvta.org  
FAX:

- f. The headings of all sections of this MOU are inserted solely for the convenience of reference and are not part of and not intended to govern, limit, or aid in the construction or interpretation of any terms or provision thereof.
- g. The provision of this MOU shall bind and insure to the benefit of each of the parties hereto and all successors or assigns of the parties hereto.
- h. If any term, provision, covenant, or condition of this MOU is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder to this MOU shall not be affected thereby, and each term, provision, covenant or condition of this MOU shall be valid and enforceable to the fullest extent permitted by law.
- i. This MOU may be executed and delivered in any number of counterparts, each of which, when executed and delivered shall be deemed an original and all of which together shall constitute the same MOU. Secure electronic signatures will be permitted.
- j. Neither this MOU, nor any of a Party's rights, obligations or duties hereunder may be assigned in whole or in part by either Party without the prior written consent of the other Party. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.
- k. The Parties warrant that, in the performance of this MOU, they shall comply with all applicable federal, state and local laws, statutes and ordinances and lawful orders, rules and regulations promulgated thereunder.
- l. Either Party shall be excused from performing its obligations under this MOU during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood, acts of God, commandeering of material, products, plants or facilities by the federal, state or local government, national fuel shortage, or a material act or omission by the other party, when satisfactory evidence of such cause is presented to the other party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the party not performing.
- m. This MOU shall be construed and interpreted solely in accordance with the laws of the State of California.

**IN WITNESS WHEREOF**, this MOU constitutes the entire understanding of the Parties hereto, and there are no other requirements, premises, warranties, covenants or undertakings with respect thereto, and have made and executed this MOU as of the day and year first above written.

OMNITRANS

Victor Valley Transit Authority

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

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

Name: P. Scott Graham

Name: \_\_\_\_\_

Title: CEO/General Manager

Title: \_\_\_\_\_

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

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

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

## Exhibit “A”, Rate Schedule

### OMNITRANS’ RATE SCHEDULE AND OTHER DIRECT COSTS

Below is a list of OMNITRANS Positions that may likely be assigned to a Mutual Aid request:

Position and/or Service	Fully Burdened Hourly Rate* or Fully-Allocated Cost
Omnitrans Field Supervisor	\$39.65
Omnitrans Road Call Mechanic and Truck (2 hour minimum)	\$35.96

Other Direct Costs anticipated, may include but not be limited to:

Expense Category	Units	Cost
Omnitrans 40’ Ft. Bus and Operator	Hourly Rate*	\$92.65
Contractor Access Van and Operator	Hourly Rate*	\$73.20
Fuel	TBD	Actual Cost
Parts	TBD	Actual Cost

\*These rates are based on current OMNITRANS budgeted rates for fully burdened employees. Hourly rates are subject to change over time based on employee salary and benefit increases.

## Exhibit "B"

### Mutual Aid Contact Information and Procedures

DATE: Tuesday, September 08, 2015  
SUBJECT: Transit Mutual Aid Agreements

1. Point of contact (POC):

Each agency's Dispatcher

Ask Metrolink to make announcements on train if VVTA impacted by road closures:  
"Connecting to VVTA please continue to Santa Fe Depot or SBTC"

2. Agency Dispatcher Emergency number:

Omnitrans (909) 884-9580

SANBAG (Metrolink)

MARTA (909) 963-7422

VVTA (760) 948-4021 ex 260 or 261

San Bernardino County Office of Emergency Services (OES)

3. Passenger collection point:

San Bernardino Transit Center (SBTC) Primary location

Normal hours of operations: M-F 0600 – 2100; Sat/Sun 0900 – 1700

24/7 security

Public Lobby

Public Restrooms

Nearby Grocery Store & Restaurants

San Bernardino Metrolink Lobby Alternate location

Lobby hours of operations: M-F 0400 - 2330

4. Locations of effected passenger stops (sweep locations):

VVTA SBTC, Santa Fe Depot, ARMC, Kaiser Fontana, Fontana TC

MARTA SBTC, E & Court, 40<sup>th</sup> & Waterman, Santa Fe Depot, 2<sup>nd</sup> & G, 4<sup>th</sup> &  
Arrowhead, Greyhound Station, Highland & Boulder

5. Location to temporarily stow buses:

San Bernardino Transit Center (SBTC) Primary location

Omnitrans - EV Alternate location

6. Fuel availability:

CNG Omnitrans (East Valley Yard)

Diesel County fueling stations

7. Accident/Incident Investigations:

VVTA desires that Omnitrans' Field Supervisors be able to respond to accidents or incidents. Need ensure that Omnitrans forms & policies cover VVTA needs.

8. Dissemination of Information on Changes to Transit Customers:

Social Media

Apps

Facebook

Twitter

Online Resources

Websites

ie511.org (SANBAG site)

Other Agencies

VVTA emergency contact list:

GM: Simon Herrera.....909-208-0000

AGM: Eduardo Espiritu.....626-710-6363

Operations: Lora Sanchez.....760-792-5778

Lead Supervisor: Brent Johnson.....760-508-9954

Contract Administrator: Shelly Cable.....760-559-8041

**MEMORANDUM OF UNDERSTANDING**  
**Between**  
**OMNITRANS**  
**And**  
**MOUNTAIN AREA REGIONAL TRANSIT AUTHORITY**  
**For**  
**MUTUAL AID**

**This Memorandum of Understanding** (“MOU”) is effective on the Effective Date as defined herein, by and between Omnitrans (“OMNITRANS”) whose address is 1700 West Fifth St., San Bernardino, California, 92411, and Mountain Area Regional Transit Authority (“MARTA”) whose address is 41939 Fox Farm Rd., Big Bear Lake, California. OMNITRANS and MARTA are each a “Party” and collectively the “Parties” as identified herein.

**RECITALS:**

**WHEREAS**, MARTA provides service that overlaps with the OMNITRANS service area and, should mutual aid be requested, it may be more timely and more cost-effective for OMNITRANS to respond to the incident; and

**WHEREAS**, the Parties desire to establish a mutual understanding to provide for OMNITRANS assistance should MARTA experience a service interruption during the course of service provision in the OMNITRANS service area; and

**WHEREAS**, OMNITRANS agrees to assist upon request and if manpower and equipment resources are available; and

**WHEREAS**, Omnitrans shall place a high priority on responding to service disruptions which occur on MARTA routes within OMNITRANS service areas, so long as such assistance does not negatively impact OMNITRANS’ own transit operations; and

**WHEREAS**, this MOU shall supersede any and all previous Mutual Aid service agreements.

**NOW, THEREFORE**, OMNITRANS and MARTA in consideration of the mutual covenants hereinafter set forth and intending to be legally bound hereby agree as follows:

1. **Complete Agreement.** This MOU, including any exhibits and documents incorporated herein and made applicable by reference, constitutes the complete and exclusive statement of the terms and conditions of the MOU between OMNITRANS and MARTA, concerning the services provided, and supersedes all prior representations, understandings, and communications between the parties. The above-referenced Recitals are true and correct and are incorporated by reference herein.
2. **OMNITRANS Responsibilities.** OMNITRANS agrees to the following responsibilities for services provided:

- a. Services (“SERVICES”) may include, but not be limited to, the temporary provision of OMNITRANS’ labor and/or contractors, installation of temporary signage, equipment including rolling stock, transit supervisor assistance/investigation services, coach operator services, maintenance services, tow services, bus storage, parts, and/or fuel.
  - b. OMNITRANS shall perform SERVICES upon request by MARTA, to the extent that OMNITRANS’ manpower and equipment are available and such services’ provision does not interfere with OMNITRANS’ own service provision.
  - c. OMNITRANS will promptly notify MARTA as soon as it is aware that its manpower and/or equipment will not be available to respond to the MARTA service interruption or request.
  - d. OMNITRANS shall submit an invoice to MARTA for SERVICES provided, by no later than the last day of the month following the month that SERVICES were provided. Each Invoice shall specify the total hours by position or service type provided, as well as any other direct costs attributed to the SERVICE provision. The invoice shall be based on the hourly rates and direct expenses identified in **Exhibit “A”**, Rate Schedule.
  - e. OMNITRANS is acting as an independent contractor under this MOU and shall pay all wages, salaries, and other amounts due to their own personnel in connection with any and all SERVICES provided under this MOU, as well as that which may be required by law. OMNITRANS shall be responsible for all reports and obligations respecting their own personnel, including, but not limited to social security taxes, income tax withholding, unemployment insurance, benefits and workers compensation insurance. OMNITRANS’ employees or agents shall not be deemed MARTA employees or agents for any purpose.
  - f. OMNITRANS agrees to indemnify, defend and hold harmless MARTA, its member agencies, officers, directors, employees, and agents from and against any and all claims (including attorney's fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage to or loss of use of property caused by the negligent acts, omissions, or willful misconduct by OMNITRANS, its officers, directors, employees, or agents in connection with or arising out of the performance of services under this MOU.
3. **MARTA Responsibilities.** MARTA agrees to the following responsibilities for services provided:
- a. MARTA management shall make a formal request for the specific OMNITRANS’ SERVICES by calling the OMNITRANS Dispatcher at the telephone numbers listed in **Exhibit “B”**, Mutual Aid Contact Information and Procedures, attached. OMNITRANS will make available the OMNITRANS Dispatcher Monday through Saturday 0300 to 2345, Sunday 0400 to 2030 with the exception of Omnitrans closed holidays.
  - b. OMNITRANS Dispatcher on duty shall have the authority to approve each MARTA SERVICE request.
  - c. Complete and accurate invoices submitted by OMNITRANS shall be paid by MARTA within thirty (30) days of receipt.
  - d. MARTA agrees to indemnify, defend and hold harmless OMNITRANS, its member agencies, officers, directors, employees, and agents from and against any and all claims (including attorney's fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage to or loss of use of property caused by the negligent acts,

omissions, or willful misconduct by MARTA, its officers, directors, employees, or agents in connection with or arising out of the performance of this MOU.

4. **The Parties Mutually Understand and Agree** to the following mutual responsibilities regarding the SERVICE:
- a. This MOU shall commence upon execution by the Parties, and shall continue in full force unless terminated as provided in this MOU.
  - b. This MOU may be amended in writing at any time by the mutual consent of the Parties. No amendment shall have any force or effect unless executed in writing by the Parties. The Parties agree that non-financial administrative changes, such as changes in key personnel, emergency response procedures, etc., may be approved administratively without re-approval by the Agencies' Boards of Directors.
  - c. OMNITRANS or MARTA may terminate this MOU, without cause, by delivering written notice of termination to the other Party not less than thirty (30) calendar days before the date of termination.
  - d. The persons executing this MOU on behalf of the parties hereto warrant that they are duly authorized to execute this MOU on behalf of said parties and that, by so executing this MOU, the parties hereto are formally bound to the provisions of this MOU.
  - e. All notices hereunder and communications required or permitted by this MOU, or changes thereto, or by law to be served on, given to or delivered to any other Party hereto by any other Party to this MOU shall be in writing or authorized in writing, and may be sent by regular mail, email or FAX. Any such notice shall be addressed to:

Notices to OMNITRANS:

Name: Mr. Scott Graham  
Title: Chief Executive Officer/General Manager  
Address: 1700 West Fifth St.  
City, State Zip: San Bernardino, California, 92411  
Email: Scott.Graham@omnitrans.org  
FAX: 909-889-5779

Notices to MARTA:

Name: Ms. Kathy Hawksford  
Title: General Manager/Chief Executive Officer  
Address: 41939 Fox Farm Rd.  
City, State Zip: Big Bear Lake, California, 92315  
Email: khawksford@mountaintransit.org  
FAX:

- f. The headings of all sections of this MOU are inserted solely for the convenience of reference and are not part of and not intended to govern, limit, or aid in the construction or interpretation of any terms or provision thereof.
- g. The provision of this MOU shall bind and insure to the benefit of each of the parties hereto and all successors or assigns of the parties hereto.
- h. If any term, provision, covenant, or condition of this MOU is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder to this MOU shall not be affected thereby, and each term, provision, covenant or condition of this MOU shall be valid and enforceable to the fullest extent permitted by law.



- i. This MOU may be executed and delivered in any number of counterparts, each of which, when executed and delivered shall be deemed an original and all of which together shall constitute the same MOU. Secure electronic signatures will be permitted.
- j. Neither this MOU, nor any of a Party's rights, obligations or duties hereunder may be assigned in whole or in part by either Party without the prior written consent of the other Party. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.
- k. The Parties warrant that, in the performance of this MOU, they shall comply with all applicable federal, state and local laws, statutes and ordinances and lawful orders, rules and regulations promulgated thereunder.
- l. Either Party shall be excused from performing its obligations under this MOU during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood, acts of God, commandeering of material, products, plants or facilities by the federal, state or local government, national fuel shortage, or a material act or omission by the other party, when satisfactory evidence of such cause is presented to the other party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the party not performing.
- m. The services provided by Omnitrans under this MOU have a not-to-exceed amount of \$25,000. The Amount shall not be exceeded unless amended in writing by the mutual consent of the Parties.
- n. This MOU shall be construed and interpreted solely in accordance with the laws of the State of California.

**IN WITNESS WHEREOF**, this MOU constitutes the entire understanding of the Parties hereto, and there are no other requirements, premises, warranties, covenants or undertakings with respect thereto, and have made and executed this MOU as of the day and year first above written.

OMNITRANS

Mountain Area Regional Transit Authority

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

## Exhibit “A”, Rate Schedule

### OMNITRANS’ RATE SCHEDULE AND OTHER DIRECT COSTS

Below is a list of OMNITRANS Positions that may likely be assigned to a Mutual Aid request:

Position and/or Service	Fully Burdened Hourly Rate* or Fully-Allocated Cost
Omnitrans Field Supervisor	\$39.65
Omnitrans Road Call Mechanic and Truck (2 hour minimum)	\$35.96

\*These rates are based on current OMNITRANS budgeted rates for fully burdened employees. Hourly rates are subject to change over time based on employee salary and benefit increases. Other Direct Costs anticipated, may include but not be limited to:

Expense Category	Units	Cost
Omnitrans 40’ Ft. Bus and Operator	Hourly Rate	\$92.65
Contractor Access Van and Operator	Hourly Rate	\$73.20
Fuel	TBD	Actual Cost
Parts	TBD	Actual Cost

## Exhibit "B"

### Mutual Aid Contact Information and Procedures

DATE: Tuesday, September 08, 2015  
SUBJECT: Transit Mutual Aid Agreements

1. Point of contact (POC):

Each agency's Dispatcher

Ask Metrolink to make announcements on train if MARTA impacted by road closures:  
"Connecting to MARTA please continue to Santa Fe Depot or SBTC"

2. Agency Dispatcher Emergency number:

Omnitrans (909) 884-9580

SANBAG (Metrolink)

MARTA (909) 963-7422

MARTA (760) 948-4021 ex 260 or 261

San Bernardino County Office of Emergency Services (OES)

3. Passenger collection point:

San Bernardino Transit Center (SBTC) Primary location

Normal hours of operations: M-F 0600 – 2100; Sat/Sun 0900 – 1700

24/7 security

Public Lobby

Public Restrooms

Nearby Grocery Store & Restaurants

San Bernardino Metrolink Lobby Alternate location

Lobby hours of operations: M-F 0400 - 2330

4. Locations of effected passenger stops (sweep locations):

MARTA SBTC, Santa Fe Depot, ARMC, Kaiser Fontana, Fontana TC

MARTA SBTC, E & Court, 40<sup>th</sup> & Waterman, Santa Fe Depot, 2<sup>nd</sup> & G, 4<sup>th</sup> &  
Arrowhead, Greyhound Station, Highland & Boulder

5. Location to temporarily stow buses:

San Bernardino Transit Center (SBTC) Primary location

Omnitrans - EV Alternate location

6. Fuel availability:

CNG Omnitrans (East Valley Yard)

Diesel County fueling stations

7. Invoicing Scenarios:

Bus Breakdown Mutual Aid Agreement

Roads Closed Mutual Aid Agreement

Metrolink Problems Metrolink Bus Bridge Agreement

8. Accident/Incident Investigations:

Mountain Transit desires that Omnitrans' Field Supervisors be able to respond to accidents or incidents. Need to ensure that Omnitrans forms & policies cover Mountain Transit needs.

9. Dissemination of Information on Changes to Transit Customers:

Social Media

Apps

Facebook

Twitter

Online Resources

Websites

ie511.org (SANBAG site)

Other Agencies

MARTA emergency contact list:

## Appendix F – Draft Agreements/MOUs

### Inter-Agency Transfers

**INTERAGENCY TRANSFER COOPERATIVE SERVICE AGREEMENT**  
**Between**  
**OMNITRANS**  
**AND**  
**VICTOR VALLEY TRANSIT AUTHORITY**

**This Cooperative Agreement** (“AGREEMENT”) is effective on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between Omnitrans (“OMNITRANS”), a public agency formed under a Joint Powers Agreement, whose address is 1700 West Fifth St., San Bernardino, California, 92411, and Victor Valley Transit Authority (“VVTA”), a public agency formed under a Joint Powers Agreement, whose address is address, 17150 Smoketree St., Hesperia, California, 92345. OMNITRANS and VVTA are each a “Party” and collectively the “Parties” as identified herein.

**RECITALS:**

**WHEREAS**, the Parties are public transit operators in San Bernardino County and this region is an integrated economic entity resulting in travel demands not necessarily constrained by transit agency jurisdictional boundaries; and

**WHEREAS**, the Parties desire to enter into this AGREEMENT to facilitate passenger transfers, service planning and interagency coordination between the Parties’ systems and thereby provide greater convenience and mobility for public transportation users; and

**WHEREAS**, the Parties have expressed a desire to continue and enhance cooperative efforts for the provision of public transportation; and

**WHEREAS**, this AGREEMENT shall supersede any and all previous interagency transfer service agreements between the Parties.

**NOW, THEREFORE**, OMNITRANS and VVTA in consideration of the mutual covenants hereinafter set forth and intending to be legally bound hereby agree as follows:

1. **Term.** This AGREEMENT shall commence upon execution by the Parties, hereinafter referred to as the "AGREEMENT Effective Date", and shall continue in full force until terminated or amended by the Parties providing a minimum of thirty (30) day written notice to the other Party.
2. **Complete Agreement.** This AGREEMENT, including any exhibits and documents incorporated herein and made applicable by reference, constitutes the complete and exclusive statement of the terms and conditions of the AGREEMENT between OMNITRANS and VVTA concerning interagency transfer cooperative services, and supersedes all prior representations, understandings, and communications between the parties. The above-referenced Recitals are true and correct and are incorporated by reference herein.
3. **Transfer Service Coordination**
  - a. OMNITRANS is the public transit agency serving the San Bernardino Valley, operating local bus routes, express bus routes, sbX rapid bus transit service, OmniGo hometown shuttle service, and Access, a paratransit service for the disabled. OMNITRANS public transit services do not currently travel into the VVTA service territory.
  - b. VVTA is a public transit agency and consolidated transportation services agency providing fixed route bus, paratransit, vanpool and commuter services to the Cities of

Adelanto, Apple Valley, Barstow, Hesperia, Victorville and unincorporated areas of the San Bernardino County high desert.

- c. VVTA's Barstow to Victorville "B-V Link" Lifeline service ("Route 15") connects Barstow and the Victor Valley to bus stop locations in the Cities of San Bernardino and Fontana in the OMNITRANS service territory. Service is currently provided Monday through Friday.
- d. Upon proof of a valid and unexpired VVTA Route 15 one-way ticket or one-day pass or VVTA Monthly MEGA Pass, OMNITRANS shall permit the VVTA passenger to board an OMNITRANS connecting bus at a point of connection to Route 15 (BV-Link) at no charge. The no charge transfer provided for herein cannot be used on OMNITRANS' Access Service.
- e. Upon proof of a valid and unexpired OMNITRANS full cash fare or any valid and unexpired OMNITRANS's 1-Day, 7-Day, or 31-Day pass media, VVTA shall reduce the B-V Link fare for a regular fare passenger by \$1.00.

#### 4. **Bus Stops.**

- a. The Parties agree to cooperate in the location, installation and maintenance of all jointly used bus stops, including use of the other Party's poles and posts at joint transfer points.
- b. Each Party agrees to be solely responsible for claims or damages arising out of its installation of its bus stop signs or passenger amenities.
- c. The Parties agree to the establishment of bus stops in the other's service area, subject to approval of each specific stop and to all local, state and federal laws, ordinances and regulations.
- d. The Parties shall be responsible for obtaining any required licenses or permits and paying any necessary fees in order to establish bus stops, install amenities or operate service in either service area.
- e. The Parties may negotiate regarding boarding restrictions within their respective service areas where duplication of service or potential revenue loss may occur.

#### 5. **Operational Information.**

- a. So as to provide greater convenience and mobility for public transit users, the Parties agree to facilitate minimization of passenger waiting time and shall coordinate schedules for connecting routes whenever practical.
- b. Each Party shall inform the other of future plans for changes to existing connecting service/routes, schedules and fares, as well as future plans for new connecting service/routes, schedules and fares, exclusive of temporary demand and/or emergencies, that would affect either Party in their operating area as well as this AGREEMENT.
- c. Each Party shall provide, upon request, data that is readily available that impacts the other Party's stops and boardings, including, but not limited to passenger boardings and alightings by stop.
- d. Each Party shall be responsible for training their drivers/coach operators on the terms, conditions and operating procedures of this AGREEMENT, to best facilitate AGREEMENT implementation.

6. **Public Information.** The Parties shall cooperate, to the extent feasible, in providing the general public with specific transit information and in advertising of operations of both Parties' services, in promoting the general use of public transit.

7. **Fares.** Fares may vary in accordance with the adopted policies of each Party. The operator of a service shall retain all fares and other revenues collected with respect to that service.

The Parties shall notify each other thirty (30) days in advance of adopting any fare changes that might affect any aspect of transfer privileges.

8. **Claims/Payments.** There shall be no payment by either Party to the other for claims for fare revenues collected by either Party. There shall be no reimbursement of operating expenses by either Party.
9. **Indemnification.**
  - a. Omnitrans, acting as an independent contractor, agrees to indemnify, defend and hold harmless VVTA, its member agencies, officers, directors, employees, and agents from and against any and all claims, liabilities, and actions whether legal, equitable or administrative, and costs and expenses (including attorney's fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage to or loss of use of property caused by the negligent acts, omissions, or willful misconduct by OMNITRANS, its officers, directors, employees, or agents in connection with or arising out of the performance of services under this AGREEMENT. This obligation shall not apply to negligent acts, omissions or willful misconduct of VVTA, its officers, directors, employees, or agents.
  - b. VVTA agrees to indemnify, defend and hold harmless OMNITRANS, its member agencies, officers, directors, employees, and agents from and against any and all claims, liabilities, and actions whether legal, equitable or administrative, and costs and expenses (including attorney's fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage to or loss of use of property caused by the negligent acts, omissions, or willful misconduct by VVTA, its officers, directors, employees, or agents in connection with or arising out of the performance of this AGREEMENT. This obligation shall not apply to negligent acts, omissions or willful misconduct of OMNITRANS, its officers, directors, employees, or agents.
10. **Venue.** This AGREEMENT shall be construed and interpreted solely in accordance with the laws of the State of California.
11. **Binding Provisions.** The persons executing this AGREEMENT on behalf of the Parties hereto warrant that they are duly authorized to execute this AGREEMENT on behalf of said Parties and that, by so executing this AGREEMENT, the Parties hereto are formally bound to the provisions of this AGREEMENT.
12. **Notices.** All notices hereunder and communications required or permitted by this AGREEMENT, or changes thereto, or by law to be served on, given to or delivered to any other Party hereto by any other Party to this AGREEMENT shall be in writing or authorized in writing, and may be sent by regular mail, email or FAX. Any such notice shall be addressed to:

**Notices to OMNITRANS:**

Name:	Mr. Scott Graham
Title:	Chief Executive Officer/General Manager
Address:	1700 West Fifth St.
City, State Zip:	San Bernardino, California, 92411
Email:	Scott.Graham@omnitrans.org
FAX:	909-889-5779



**Notices to VVTA:**

Name: Mr. Kevin Kane  
Title: Executive Director  
Address: 17150 Smoketree St  
City, State Zip: Hesperia, California, 92345  
Email: kkane@vvta.org  
FAX: 760-948-1380

**13. Other Provisions.**

- a. The headings of all sections of this AGREEMENT are inserted solely for the convenience of reference and are not part of and not intended to govern, limit, or aid in the construction or interpretation of any terms or provision thereof.
- b. The provision of this AGREEMENT shall bind and inure to the benefit of each of the Parties hereto and all successors or assigns of the Parties hereto.
- c. If any term, provision, covenant, or condition of this AGREEMENT is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder to this AGREEMENT shall not be affected thereby, and each term, provision, covenant or condition of this AGREEMENT shall be valid and enforceable to the fullest extent permitted by law.
- d. This AGREEMENT may be executed and delivered in any number of counterparts, each of which, when executed and delivered shall be deemed an original and all of which together shall constitute the same AGREEMENT. Secure electronic signatures will be permitted.
- e. This AGREEMENT may be amended in writing at any time by the mutual consent of the Parties. No amendment shall have any force or effect unless executed in writing by the Parties. The Parties agree that non-financial administrative changes, such as changes in service schedules or locations, etc., may be approved administratively without re-approval by the Agencies' Boards of Directors.
- f. Neither this AGREEMENT, nor any of a Party's rights, obligations or duties hereunder may be assigned in whole or in part by either Party without the prior written consent of the other Party. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.
- g. The Parties warrant that, in the performance of this AGREEMENT, they shall comply with all applicable federal, state and local laws, statutes and ordinances and lawful orders, rules and regulations promulgated thereunder.
- h. Either Party shall be excused from performing its obligations under this AGREEMENT during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood, acts of God, commandeering of material, products, plants or facilities by the federal, state or local government, national fuel shortage, or a material act or omission by the other Party, when satisfactory evidence of such cause is presented to the other Party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the Party not performing.

**IN WITNESS WHEREOF**, this AGREEMENT constitutes the entire understanding of the Parties hereto, and there are no other requirements, premises, warranties, covenants or undertakings with respect thereto, and have made and executed this AGREEMENT as of the day and year first above written.

**OMNITRANS**

**VICTOR VALLEY TRANSIT AUTHORITY**

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

By: \_\_\_\_\_  
Kevin Kane  
Executive Director

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

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

APPROVED AS TO FORM:

APPROVED AS TO FORM:

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

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

Name/Title: \_\_\_\_\_

Name/Title: \_\_\_\_\_

**INTERAGENCY TRANSFER COOPERATIVE SERVICE AGREEMENT**  
**Between**  
**OMNITRANS**  
**AND**  
**MOUNTAIN AREA REGIONAL TRANSIT AUTHORITY**

**This Cooperative Agreement** ("AGREEMENT") is effective on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between Omnitrans ("OMNITRANS), a public agency formed under a Joint Powers Agreement, whose address is 1700 West Fifth St., San Bernardino, California, 92411, and Mountain Area Regional Transit Authority ("MT"), a public agency formed under a Joint Powers Agreement, whose address is address, 41939 Fox Farm Road, Big Bear Lake, California, 92315. OMNITRANS and MT are each a "Party" and collectively the "Parties" as identified herein.

**RECITALS:**

**WHEREAS**, the Parties are public transit operators in San Bernardino County and this region is an integrated economic entity resulting in travel demands not necessarily constrained by transit agency jurisdictional boundaries; and

**WHEREAS**, the Parties desire to enter into this AGREEMENT to facilitate passenger transfers, service planning and interagency coordination between the Parties' systems and thereby provide greater convenience and mobility for public transportation users; and

**WHEREAS**, the Parties have expressed a desire to continue and enhance cooperative efforts for the provision of public transportation; and

**WHEREAS**, this AGREEMENT shall supersede any and all previous interagency transfer service agreements between the Parties.

**NOW, THEREFORE**, OMNITRANS and MT in consideration of the mutual covenants hereinafter set forth and intending to be legally bound hereby agree as follows:

1. **Term.** This AGREEMENT shall commence upon execution by the Parties, hereinafter referred to as the "AGREEMENT Effective Date", and shall continue in full force until terminated or amended by the Parties providing a minimum of thirty (30) day written notice to the other Party.
2. **Complete Agreement.** This AGREEMENT, including any exhibits and documents incorporated herein and made applicable by reference, constitutes the complete and exclusive statement of the terms and conditions of the AGREEMENT between OMNITRANS and MT concerning interagency transfer cooperative services, and supersedes all prior representations, understandings, and communications between the parties. The above-referenced Recitals are true and correct and are incorporated by reference herein.
3. **Transfer Service Coordination**
  - a. OMNITRANS is the public transit agency serving the San Bernardino Valley, operating local bus routes, express bus routes, sbX rapid bus transit service, OmniGo hometown shuttle service, and Access, a paratransit service for the disabled. OMNITRANS public transit services do not currently travel into the MT service territory.
  - b. MT is a public transit agency providing fixed route bus, Dial-A-Ride, and fixed route commuter services to the City of Big Bear Lake and unincorporated areas of the San

Bernardino Mountain Communities, including Running Springs, Lake Arrowhead, Crestline and Big Bear City.

- c. MT's provides two Off-The-Mountain "OTM" fixed route commuter services routes:
  - i. "Big Bear OTM" which connects Big Bear Valley and Running Springs to bus stop locations in the Cities of Highland and San Bernardino in the OMNITRANS service territory. Service is provided seven days per week.
  - ii. "RIM OTM" which connects Lake Arrowhead and Crestline to bus stop locations in the City of San Bernardino in the OMNITRANS service territory. Service is currently provided Monday through Saturday.
- d. Upon proof of a valid and unexpired MT OTM transfer, OMNITRANS shall permit the MT passenger to board an OMNITRANS connecting bus at a connecting stop at no charge. The no charge transfer provided from herein cannot be used on OMNITRANS' Access Service.
- e. Upon proof of a valid and unexpired OMNITRANS 1-Day, 7-Day, or 31-Day pass, MT shall reduce the Big Bear or RIM OTM fare for a passenger by \$1.00.

#### **4. Bus Stops.**

- a. The Parties agree to cooperate in the location, installation and maintenance of all jointly used bus stops, including use of the other Party's poles and posts at joint transfer points.
- b. Each Party agrees to be solely responsible for claims or damages arising out of its installation of its bus stop signs or passenger amenities.
- c. The Parties agree to the establishment of bus stops in the other's service area, subject to approval of each specific stop and to all local, state and federal laws, ordinances and regulations.
- d. The Parties shall be responsible for obtaining any required licenses or permits and paying any necessary fees in order to establish bus stops, install amenities or operate service in either service area.
- e. The Parties may negotiate regarding boarding restrictions within their respective service areas where duplication of service or potential revenue loss may occur.

#### **5. Operational Information.**

- a. So as to provide greater convenience and mobility for public transit users, the Parties agree to facilitate minimization of passenger waiting time and shall coordinate schedules for connecting routes whenever practical.
- b. Each Party shall inform the other of future plans for changes to existing connecting service/routes, schedules and fares, as well as future plans for new connecting service/routes, schedules and fares, exclusive of temporary demand and/or emergencies, that would affect either Party in their operating area as well as this AGREEMENT.
- c. Each Party shall provide, upon request, data that is readily available that impacts the other Party's stops and boardings, including, but not limited to passenger boardings and alightings by stop.
- d. Each Party shall be responsible for training their drivers/coach operators on the terms, conditions and operating procedures of this AGREEMENT, to best facilitate AGREEMENT implementation.

6. **Public Information.** The Parties shall cooperate, to the extent feasible, in providing the general public with specific transit information and in advertising of operations of both Parties' services, in promoting the general use of public transit.

7. **Fares.** Fares may vary in accordance with the adopted policies of each Party. The operator of a service shall retain all fares and other revenues collected with respect to that service.

The Parties shall notify each other thirty (30) days in advance of adopting any fare changes that might affect any aspect of transfer privileges.

8. **Claims/Payments.** There shall be no payment by either Party to the other for claims for fare revenues collected by either Party. There shall be no reimbursement of operating expenses by either Party.
9. **Indemnification.**
  - a. Omnitrans, acting as an independent contractor, agrees to indemnify, defend and hold harmless MT, its member agencies, officers, directors, employees, and agents from and against any and all claims, liabilities, and actions whether legal, equitable or administrative, and costs and expenses (including attorney's fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage to or loss of use of property caused by the negligent acts, omissions, or willful misconduct by OMNITRANS, its officers, directors, employees, or agents in connection with or arising out of the performance of services under this AGREEMENT. This obligation shall not apply to negligent acts, omissions or willful misconduct of MT, its officers, directors, employees, or agents.
  - b. MT agrees to indemnify, defend and hold harmless OMNITRANS, its member agencies, officers, directors, employees, and agents from and against any and all claims, liabilities, and actions whether legal, equitable or administrative, and costs and expenses (including attorney's fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage to or loss of use of property caused by the negligent acts, omissions, or willful misconduct by MT, its officers, directors, employees, or agents in connection with or arising out of the performance of this AGREEMENT. This obligation shall not apply to negligent acts, omissions or willful misconduct of OMNITRANS, its officers, directors, employees, or agents.
10. **Venue.** This AGREEMENT shall be construed and interpreted solely in accordance with the laws of the State of California.
11. **Binding Provisions.** The persons executing this AGREEMENT on behalf of the Parties hereto warrant that they are duly authorized to execute this AGREEMENT on behalf of said Parties and that, by so executing this AGREEMENT, the Parties hereto are formally bound to the provisions of this AGREEMENT.
12. **Notices.** All notices hereunder and communications required or permitted by this AGREEMENT, or changes thereto, or by law to be served on, given to or delivered to any other Party hereto by any other Party to this AGREEMENT shall be in writing or authorized in writing, and may be sent by regular mail, email or FAX. Any such notice shall be addressed to:

**Notices to OMNITRANS:**

Name:	Mr. Scott Graham
Title:	Chief Executive Officer/General Manager
Address:	1700 West Fifth St.
City, State Zip:	San Bernardino, California, 92411
Email:	Scott.Graham@omnitrans.org
FAX:	909-889-5779

**Notices to MT:**

Name: Ms. Kathy Hawksford  
Title: General Manager/Chief Executive Officer  
Physical Address: 41939 Fox Farm Road  
Mailing Address: PO Box 1501  
City, State Zip: Big Bear Lake, California, 92315  
Email: khawksford@mountaintransit.org  
FAX: 909-963-7200

**13. Other Provisions.**

- a. The headings of all sections of this AGREEMENT are inserted solely for the convenience of reference and are not part of and not intended to govern, limit, or aid in the construction or interpretation of any terms or provision thereof.
- b. The provision of this AGREEMENT shall bind and inure to the benefit of each of the Parties hereto and all successors or assigns of the Parties hereto.
- c. If any term, provision, covenant, or condition of this AGREEMENT is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder to this AGREEMENT shall not be affected thereby, and each term, provision, covenant or condition of this AGREEMENT shall be valid and enforceable to the fullest extent permitted by law.
- d. This AGREEMENT may be executed and delivered in any number of counterparts, each of which, when executed and delivered shall be deemed an original and all of which together shall constitute the same AGREEMENT. Secure electronic signatures will be permitted.
- e. This AGREEMENT may be amended in writing at any time by the mutual consent of the Parties. No amendment shall have any force or effect unless executed in writing by the Parties. The Parties agree that non-financial administrative changes, such as changes in service schedules or locations, etc., may be approved administratively without re-approval by the Agencies' Boards of Directors.
- f. Neither this AGREEMENT, nor any of a Party's rights, obligations or duties hereunder may be assigned in whole or in part by either Party without the prior written consent of the other Party. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.
- g. The Parties warrant that, in the performance of this AGREEMENT, they shall comply with all applicable federal, state and local laws, statutes and ordinances and lawful orders, rules and regulations promulgated thereunder.
- h. Either Party shall be excused from performing its obligations under this AGREEMENT during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood, acts of God, commandeering of material, products, plants or facilities by the federal, state or local government, national fuel shortage, or a material act or omission by the other Party, when satisfactory evidence of such cause is presented to the other Party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the Party not performing.

**IN WITNESS WHEREOF**, this AGREEMENT constitutes the entire understanding of the Parties hereto, and there are no other requirements, premises, warranties, covenants or undertakings with respect thereto, and have made and executed this AGREEMENT as of the day and year first above written.

**OMNITRANS**

**MOUNTAIN TRANSIT**

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

By: \_\_\_\_\_  
Kathy Hawksford  
General Manager/CEO

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

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

APPROVED AS TO FORM:

APPROVED AS TO FORM:

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

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

Name/Title: \_\_\_\_\_ Name/Title: \_\_\_\_\_

**INTERAGENCY TRANSFER COOPERATIVE SERVICE AGREEMENT**  
**Between**  
**VICTOR VALLEY TRANSIT AUTHORITY**  
**AND**  
**MOUNTAIN AREA REGIONAL TRANSIT**

**This Cooperative Agreement** (“AGREEMENT”) is effective on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between Victor Valley Transit Authority (“VVTA”), a public agency formed under a Joint Powers Agreement, whose address is address, 17150 Smoketree St., Hesperia, California, 92345, and Mountain Area Regional Transit (“MT”), a public agency formed under a Joint Powers Agreement, whose address is address, 41939 Fox Farm Road, Big Bear Lake, California, 92315. VVTA and MT are each a “Party” and collectively the “Parties” as identified herein.

**RECITALS:**

**WHEREAS**, the Parties are public transit operators in San Bernardino County and this region is an integrated economic entity resulting in travel demands not necessarily constrained by transit agency jurisdictional boundaries; and

**WHEREAS**, the Parties desire to enter into this AGREEMENT to facilitate passenger transfers, service planning and interagency coordination between the Parties’ systems and thereby provide greater convenience and mobility for public transportation users; and

**WHEREAS**, the Parties have expressed a desire to continue and enhance cooperative efforts for the provision of public transportation; and

**WHEREAS**, this AGREEMENT shall supersede any and all previous interagency transfer service agreements between the Parties.

**NOW, THEREFORE**, VVTA and MT in consideration of the mutual covenants hereinafter set forth and intending to be legally bound hereby agree as follows:

1. **Term.** This AGREEMENT shall commence upon execution by the Parties, hereinafter referred to as the "AGREEMENT Effective Date", and shall continue in full force until terminated or amended by the Parties providing a minimum of thirty (30) day written notice to the other Party.
2. **Complete Agreement.** This AGREEMENT, including any exhibits and documents incorporated herein and made applicable by reference, constitutes the complete and exclusive statement of the terms and conditions of the AGREEMENT between VVTA and MT concerning interagency transfer cooperative services, and supersedes all prior representations, understandings, and communications between the parties. The above-referenced Recitals are true and correct and are incorporated by reference herein.
3. **Transfer Service Coordination**
  - a. VVTA is a public transit agency and consolidated transportation services agency providing fixed route bus, paratransit, vanpool and commuter services to the Cities of Adelanto, Apple Valley, Barstow, Hesperia, Victorville and unincorporated areas of the San Bernardino County high desert.



- b. VVTA's Barstow to Victorville "B-V Link" Lifeline service ("Route 15") connects Barstow and the Victor Valley to bus stop locations in the Cities of San Bernardino and Fontana. Service is currently provided Monday through Friday.
- c. MT is a public transit agency providing fixed route bus, Dial-A-Ride, and fixed route commuter services to the City of Big Bear Lake and unincorporated areas of the San Bernardino Mountain Communities, including Running Springs, Lake Arrowhead, Crestline and Big Bear City.
- d. MT's provides two Off-The-Mountain "OTM" fixed route commuter services routes:
  - i. "Big Bear OTM" which connects the Big Bear Valley and Running Springs to bus stop locations in the Cities of Highland and San Bernardino in the Omnitrans service territory. Service is provided seven days per week.
  - ii. "RIM OTM" which connects Lake Arrowhead and Crestline to bus stop locations in the City of San Bernardino in the Omnitrans service territory. Service is currently provided Monday through Saturday.
- e. The bus stops that the Parties provide service to in the City of San Bernardino, are outside of the PARTIES identified service areas.
- f. At mutually-served bus stops, upon proof of a valid MT OTM transfer (from the purchase of a cash one-way fare) or a MT Punch Pass fare media, VVTA shall reduce the B-V Link fare for a regular fare passenger by \$1.00, and by \$.50 for a Senior/Disabled/Medicare/Veteran fare passenger. The fare reduction resulting from a passenger on a MT Big Bear or RIM OTM bus transferring to VVTA's B-V Link bus is only valid on the day that the OMNITRANS fare media was issued and/or was good for.
- g. At mutually-served bus stops, upon proof of a valid VVTA full cash fare, MT shall reduce the Big Bear or RIM OTM fare for a regular fare passenger by \$1.00, and by \$.50 for a Senior/Disabled/Medicare/Veteran fare passenger. The fare reduction resulting from a passenger on a VVTA bus transferring to MT's Big Bear or RIM OTM bus is only valid on the day that the VVTA fare media was issued and/or was good for.

#### 4. **Bus Stops.**

- a. The Parties agree to cooperate in the location, installation and maintenance of all jointly used bus stops, including use of the other Party's poles and posts at joint transfer points. Coordination will also occur with Omnitrans for bus stops within the Omnitrans service area.
- b. Each Party agrees to be solely responsible for claims or damages arising out of its installation of its bus stop signs or passenger amenities.
- c. The Parties agree to the future establishment of bus stops in the other's service area, subject to approval of each specific stop and to all local, state and federal laws, ordinances and regulations.
- d. The Parties shall be responsible for obtaining any required licenses or permits and paying any necessary fees in order to establish bus stops, install amenities or operate service in either service area.
- e. The Parties may negotiate regarding boarding restrictions within their respective service areas where duplication of service or potential revenue loss may occur.

#### 5. **Operational Information.**

- a. So as to provide greater convenience and mobility for public transit users, the Parties agree to facilitate minimization of passenger waiting time and shall coordinate schedules for connecting routes whenever practical.
- b. Each Party shall inform the other of future plans for changes to existing connecting service/routes, schedules and fares, as well as future plans for new connecting service/routes, schedules and fares, exclusive of temporary demand and/or emergencies, that would affect either Party in their operating area as well as this AGREEMENT.

- c. Each Party shall provide, upon request, data that is readily available that impacts the other Party's stops and boardings, including, but not limited to passenger boardings and alightings by stop.
  - d. Each Party shall be responsible for training their drivers and coach operators on the terms, conditions and operating procedures of this AGREEMENT, to best facilitate AGREEMENT implementation.
- 6. **Public Information.** The Parties shall cooperate, to the extent feasible, in providing the general public with specific transit information and in advertising of operations of both Parties' services, in promoting the general use of public transit.
- 7. **Fares.** Fares may vary in accordance with the adopted policies of each Party. The operator of a service shall retain all fares and other revenues collected with respect to that service. The Parties shall notify each other thirty (30) days in advance of adopting any fare changes that might affect any aspect of transfer privileges.
- 8. **Claims/Payments.** There shall be no payment by either Party to the other for claims for fare revenues collected by either Party. There shall be no reimbursement of operating expenses by either Party.
- 9. **Indemnification.**
  - a. VVTA, acting as an independent contractor, agrees to indemnify, defend and hold harmless MT, its member agencies, officers, directors, employees, and agents from and against any and all claims, liabilities, and actions whether legal, equitable or administrative, and costs and expenses (including attorney's fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage to or loss of use of property caused by the negligent acts, omissions, or willful misconduct by VVTA, its officers, directors, employees, or agents in connection with or arising out of the performance of services under this AGREEMENT. This obligation shall not apply to negligent acts, omissions or willful misconduct of MT, its officers, directors, employees, or agents.
  - b. MT agrees to indemnify, defend and hold harmless VVTA, its member agencies, officers, directors, employees, and agents from and against any and all claims, liabilities, and actions whether legal, equitable or administrative, and costs and expenses (including attorney's fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage to or loss of use of property caused by the negligent acts, omissions, or willful misconduct by MT, its officers, directors, employees, or agents in connection with or arising out of the performance of this AGREEMENT. This obligation shall not apply to negligent acts, omissions or willful misconduct of VVTA, its officers, directors, employees, or agents.
- 10. **Venue.** This AGREEMENT shall be construed and interpreted solely in accordance with the laws of the State of California.
- 11. **Binding Provisions.** The persons executing this AGREEMENT on behalf of the Parties hereto warrant that they are duly authorized to execute this AGREEMENT on behalf of said Parties and that, by so executing this AGREEMENT, the Parties hereto are formally bound to the provisions of this AGREEMENT.
- 12. **Notices.** All notices hereunder and communications required or permitted by this AGREEMENT, or changes thereto, or by law to be served on, given to or delivered to any other Party hereto by any other Party to this AGREEMENT shall be in writing or authorized

in writing, and may be sent by regular mail, email or FAX. Any such notice shall be addressed to:

**Notices to VVTA:**

Name: Mr. Kevin Kane  
Title: Executive Director  
Address: 17150 Smoketree St  
City, State Zip: Hesperia, California, 92345  
Email: kkane@vvta.org  
FAX: 760-948-1380

**Notices to MT:**

Name: Ms. Kathy Hawksford  
Title: General Manager/Chief Executive Officer  
Physical Address: 41939 Fox Farm Road  
Mailing Address: PO Box 1501  
City, State Zip: Big Bear Lake, California, 92315  
Email: khawksford@mountaintransit.org  
FAX: 909-963-7200

**13. Other Provisions.**

- a. The headings of all sections of this AGREEMENT are inserted solely for the convenience of reference and are not part of and not intended to govern, limit, or aid in the construction or interpretation of any terms or provision thereof.
- b. The provision of this AGREEMENT shall bind and inure to the benefit of each of the Parties hereto and all successors or assigns of the Parties hereto.
- c. If any term, provision, covenant, or condition of this AGREEMENT is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder to this AGREEMENT shall not be affected thereby, and each term, provision, covenant or condition of this AGREEMENT shall be valid and enforceable to the fullest extent permitted by law.
- d. This AGREEMENT may be executed and delivered in any number of counterparts, each of which, when executed and delivered shall be deemed an original and all of which together shall constitute the same AGREEMENT. Secure electronic signatures will be permitted.
- e. This MOU may be amended in writing at any time by the mutual consent of the Parties. No amendment shall have any force or effect unless executed in writing by the Parties. The Parties agree that non-financial administrative changes, such as changes in service schedules or locations, etc., may be approved administratively without re-approval by the Agencies' Boards of Directors.
- f. Neither this AGREEMENT, nor any of a Party's rights, obligations or duties hereunder may be assigned in whole or in part by either Party without the prior written consent of the other Party. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.
- g. The Parties warrant that, in the performance of this AGREEMENT, they shall comply with all applicable federal, state and local laws, statutes and ordinances and lawful orders, rules and regulations promulgated thereunder.
- h. Either Party shall be excused from performing its obligations under this AGREEMENT during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood, acts of God, commandeering of material, products, plants or facilities by the

federal, state or local government, national fuel shortage, or a material act or omission by the other Party, when satisfactory evidence of such cause is presented to the other Party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the Party not performing.

**IN WITNESS WHEREOF**, this AGREEMENT constitutes the entire understanding of the Parties hereto, and there are no other requirements, premises, warranties, covenants or undertakings with respect thereto, and have made and executed this AGREEMENT as of the day and year first above written.

**VVTA**

**MOUNTAIN AREA REGIONAL TRANSIT**

By: \_\_\_\_\_  
Kevin Kane  
Executive Director

By: \_\_\_\_\_  
Kathy Hawksford  
General Manager/CEO

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

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

APPROVED AS TO FORM:

APPROVED AS TO FORM:

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

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

Name/Title: \_\_\_\_\_

Name/Title: \_\_\_\_\_

**INTERAGENCY TRANSFER COOPERATIVE SERVICE AGREEMENT**  
**Between**  
**MORONGO BASIN TRANSIT AUTHORITY**  
**And**  
**SUNLINE TRANSIT AGENCY**

**This Cooperative Agreement** ("AGREEMENT") is effective on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between Morongo Basin Transit Authority ("MBTA"), a public agency formed under a Joint Powers Agreement, whose address is address, 162405 Verbena Road, Joshua Tree, California, 92252, and SunLine Transit Agency ("SUNLINE"), a public agency formed under a Joint Powers Agreement, whose address is address, 32-505 Harry Oliver Trail, Thousand Palms, California 92276. MBTA and SUNLINE are each a "Party" and collectively the "Parties" as identified herein.

**RECITALS:**

**WHEREAS**, the Parties are public transit operators in San Bernardino and Riverside Counties and this region is an integrated economic entity resulting in travel demands not necessarily constrained by transit agency jurisdictional boundaries; and

**WHEREAS**, the Parties desire to enter into this AGREEMENT to facilitate passenger transfers, service planning and interagency coordination between the Parties' systems and thereby provide greater convenience and mobility for public transportation users; and

**WHEREAS**, the Parties have expressed a desire to continue and enhance cooperative efforts for the provision of public transportation; and

**WHEREAS**, this AGREEMENT shall supersede any and all previous interagency transfer service agreements between the Parties.

**NOW, THEREFORE**, MBTA and SUNLINE in consideration of the mutual covenants hereinafter set forth and intending to be legally bound hereby agree as follows:

1. **Term.** This AGREEMENT shall commence upon execution by the Parties, hereinafter referred to as the "AGREEMENT Effective Date", and shall continue in full force until terminated or amended by the Parties providing a minimum of thirty (30) day written notice to the other Party.
2. **Complete Agreement.** This AGREEMENT, including any exhibits and documents incorporated herein and made applicable by reference, constitutes the complete and exclusive statement of the terms and conditions of the AGREEMENT between MBTA and SUNLINE concerning interagency transfer cooperative services, and supersedes all prior representations, understandings, and communications between the parties. The above-referenced Recitals are true and correct and are incorporated by reference herein.
3. **Transfer Service Coordination.**
  - a. MBTA is a public transit agency providing fixed route bus, paratransit and commuter services to the City of Twentynine Palms, the Town of Yucca Valley and the communities of Joshua Tree, Morongo Valley, Landers and other unincorporated areas of the San Bernardino County low desert.
  - b. MBTA provides commuter services ("Routes 12/15") from the Town of Yucca Valley, City of Twentynine Palms, Joshua Tree and the Marine Corps Air Ground Combat

Center ("MCGACC), connecting to bus stop locations in the City of Palm Springs. Service is currently provided seven days a week.

- c. SUNLINE is a public transit agency providing fixed route bus ("SUNBUS"), paratransit, and commuter bus services to the Cities of Desert Hot Springs, Palm Springs, Cathedral City, Rancho Mirage, Palm Desert, Indian Wells, Thousand Palms, Cabazon, Beaumont, Moreno Valley and Riverside, as well unincorporated areas of Riverside County's low desert and Coachella Valley. Service is currently provided seven days a week.
- d. Upon proof of a valid MBTA Route 12/15 cash fare or ten-ride punch pass, SUNLINE shall sell the MBTA passenger a SUNLINE transfer at the current transfer ticket rate and allow the passenger to board. The purchase of a transfer is only valid on the day that the MBTA fare media was issued and/or was good for and is only valid on SUNBUS fixed route service. SUNLINE transfer policies shall apply.
- e. Upon proof of a valid SUNLINE cash fare or Sunline Pass, MBTA shall reduce the Route 12/15 one-way cash fare for an adult passenger (18 – 59 years) boarding in Palm Springs by \$1.00 or the then-current Sunline Adult fare, for a Senior/Disabled/Medicare passenger (60+/Disabled/Medicare) by \$0.50 or the then-current Sunline Senior/Disabled fare, and for a youth passenger (5 – 17 years) by \$0.85 or the then-current Sunline Youth fare. The fare reduction resulting from a passenger on a SUNLINE bus transferring to a MBTA's Route 12/15 bus is only valid for cash-fare passengers and only valid on the day that the SUNLINE fare media was issued and/or was good for.

#### 4. **Bus Stops and Service Description.**

- a. For purposes of this Agreement, the designated bus stops in the SUNLINE service area to be used by MBTA are as follows:  
City of Palm Springs:
  - i. Palm Springs International Airport Bus Stop
  - ii. Bus stop #24 located on the southeast corner of Indian Canyon Drive at Andreas Road
  - iii. Bus stop #26 located on the northeast corner of Indian Canyon Drive at Tachevah Drive.
  - iv. Any other SUNLINE bus stop on the Route 12 and 15 alignments within SUNLINE's service area, so long as MBTA buses do not wait at these bus stops beyond the time required to set down/pick up passengers. MBTA may wait for scheduled time-points only at the bus stops listed in items 4a(i), 4a(ii), and 4a(iii) above.
- b. MBTA shall not carry passengers traveling solely between any two SUNLINE bus stops.
- c. The Parties agree to cooperate in the location, installation and maintenance of all jointly used bus stops, including use of the other Party's poles and posts at joint transfer points.
- d. Each Party agrees to be solely responsible for claims or damages arising out of its installation of its bus stop signs or passenger amenities.
- e. The Parties agree to the establishment of bus stops in the other's service area, subject to approval of each specific stop and to all local, state and federal laws, ordinances and regulations.
- f. The Parties shall be responsible for obtaining any required licenses or permits and paying any necessary fees in order to establish bus stops, install amenities or operate service in either service area.
- g. The Parties may negotiate regarding boarding restrictions within their respective service areas where duplication of service or potential revenue loss may occur.

#### 5. **Operational Information.**

- a. So as to provide greater convenience and mobility for public transit users, the Parties agree to facilitate minimization of passenger waiting time and shall coordinate schedules for connecting routes whenever practical.

- b. Each Party shall inform the other of future plans for changes to existing connecting service/routes, schedules and fares, as well as future plans for new connecting service/routes, schedules and fares, exclusive of temporary demand and/or emergencies, that would affect either Party in their operating area as well as this AGREEMENT.
  - c. Each Party shall provide, upon request, data that is readily available that impacts the other Party's stops and boardings, including, but not limited to passenger boardings and alightings by stop.
  - d. Each Party shall be responsible for training their drivers/coach operators on the terms, conditions and operating procedures of this AGREEMENT, to best facilitate AGREEMENT implementation.
6. **Public Information.** The Parties shall cooperate, to the extent feasible, in providing the general public with specific transit information and in advertising of operations of both Parties' services, in promoting the general use of public transit.
7. **Fares.** Fares may vary in accordance with the adopted policies of each Party. The operator of a service shall retain all fares and other revenues collected with respect to that service. The Parties shall notify each other thirty (30) days in advance of adopting any fare changes that might affect any aspect of transfer privileges.
8. **Claims/Payments.** There shall be no payment by either Party to the other for claims for fare revenues collected by either Party. There shall be no reimbursement of operating expenses by either Party.
9. **Indemnification.**
  - a. MBTA, acting as an independent contractor, agrees to indemnify, defend and hold harmless SUNLINE, its member agencies, officers, directors, employees, and agents from and against any and all claims, liabilities, and actions whether legal, equitable or administrative, and costs and expenses (including attorney's fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage to or loss of use of property caused by the negligent acts, omissions, or willful misconduct by MBTA, its officers, directors, employees, or agents in connection with or arising out of the performance of services under this AGREEMENT. This obligation shall not apply to negligent acts, omissions or willful misconduct of SUNLINE, its officers, directors, employees, or agents.
  - b. SUNLINE agrees to indemnify, defend and hold harmless MBTA, its member agencies, officers, directors, employees, and agents from and against any and all claims, liabilities, and actions whether legal, equitable or administrative, and costs and expenses (including attorney's fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage to or loss of use of property caused by the negligent acts, omissions, or willful misconduct by SUNLINE, its officers, directors, employees, or agents in connection with or arising out of the performance of this AGREEMENT. This obligation shall not apply to negligent acts, omissions or willful misconduct of MBTA, its officers, directors, employees, or agents.
10. **Insurance.**
  - a. MBTA shall ensure that while providing services under this Agreement, it shall obtain and maintain throughout the term of this Agreement one or more policy(ies) for general liability, which policy(ies) shall name "SUNLINE" as an additional insured and have a minimum aggregate coverage of not less than one million dollars (\$1,000,000) per incident covering claims arising under this Agreement; to the extent that greater

coverage is required by federal or state law or regulation, MBTA shall maintain and provide proof of such insurance. MBTA's insurance shall be primary, not excess or contributory, as to insurance carried by SUNLINE. MBTA retains the right to self-insure for general liability insurance at its sole option and will provide a letter of self-insurance, if it elects to self-insure in lieu of a certificate of insurance.

- b. SUNLINE shall maintain general liability insurance of not less than one million dollars (\$1,000,000) per incident covering claims arising under this Agreement, and provide a certificate of insurance demonstrating that MBTA has been named as additional insureds on its insurance policy; to the extent that greater coverage is required by federal or state law or regulation, SUNLINE shall maintain and provide proof of such insurance. SUNLINE insurance shall be primary, not excess or contributory, as to any insurance carried by MBTA or any third-party bus operator retained by MBTA. SUNLINE retains the right to self-insure for general liability insurance at its sole option and will provide a letter of self-insurance, if it elects to self-insure in lieu of a certificate of insurance.

11. **Venue.** This AGREEMENT shall be construed and interpreted solely in accordance with the laws of the State of California.

12. **Binding Provisions.** The persons executing this AGREEMENT on behalf of the Parties hereto warrant that they are duly authorized to execute this AGREEMENT on behalf of said Parties and that, by so executing this AGREEMENT, the Parties hereto are formally bound to the provisions of this AGREEMENT.

13. **Notices.** All notices hereunder and communications required or permitted by this AGREEMENT, or changes thereto, or by law to be served on, given to or delivered to any other Party hereto by any other Party to this AGREEMENT shall be in writing or authorized in writing, and may be sent by regular mail, email or FAX. Any such notice shall be addressed to:

**Notices to MBTA:**

Name: Mr. Mark Goodale  
Title: General Manager  
Address: 62405 Verbena Road  
City, State Zip: Joshua Tree, California 92252  
Email: mark@mbtabus.com  
Phone: 760-366-2395

**Notices to SUNLINE:**

Name: Ms. Lauren L. Skiver  
Title: Chief Executive Officer/General Manager  
Address: 32-505 Harry Oliver Trail  
City, State Zip: Thousand Palms, California 92276  
Email: lskiver@sunline.org  
Phone: 760-343-3456

14. **Independent Contractor.**

Neither Party is an agent, representative, or employee of the other Party, but rather is an independent contractor. Neither Party has the authority to make representations, commitments, or obligations on behalf of the other Party. Nothing in this Agreement shall be construed to create a partnership, joint venture, employer-employee, or principal-agent relationship, or any other relationship of similar nature between SUNLINE and MBTA.



## 15. Other Provisions.

- a. The headings of all sections of this AGREEMENT are inserted solely for the convenience of reference and are not part of and not intended to govern, limit, or aid in the construction or interpretation of any terms or provision thereof.
- b. The provision of this AGREEMENT shall bind and inure to the benefit of each of the Parties hereto and all successors or assigns of the Parties hereto.
- c. If any term, provision, covenant, or condition of this AGREEMENT is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder to this AGREEMENT shall not be affected thereby, and each term, provision, covenant or condition of this AGREEMENT shall be valid and enforceable to the fullest extent permitted by law.
- d. This AGREEMENT may be executed and delivered in any number of counterparts, each of which, when executed and delivered shall be deemed an original and all of which together shall constitute the same AGREEMENT. Secure electronic signatures will be permitted.
- e. This MOU may be amended in writing at any time by the mutual consent of the Parties. No amendment shall have any force or effect unless executed in writing by the Parties. The Parties agree that non-financial administrative changes, such as changes in service schedules or locations, etc., may be approved administratively without re-approval by the Agencies' Boards of Directors.
- f. Neither this AGREEMENT, nor any of a Party's rights, obligations or duties hereunder may be assigned in whole or in part by either Party without the prior written consent of the other Party. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.
- g. The Parties warrant that, in the performance of this AGREEMENT, they shall comply with all applicable federal, state and local laws, statutes and ordinances and lawful orders, rules and regulations promulgated thereunder.
- h. Either Party shall be excused from performing its obligations under this AGREEMENT during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood, acts of God, commandeering of material, products, plants or facilities by the federal, state or local government, national fuel shortage, or a material act or omission by the other Party, when satisfactory evidence of such cause is presented to the other Party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the Party not performing.

**IN WITNESS WHEREOF**, this AGREEMENT constitutes the entire understanding of the Parties hereto, and there are no other requirements, premises, warranties, covenants or undertakings with respect thereto, and have made and executed this AGREEMENT as of the day and year first above written.

**MORONGO BASIN TRANSIT AUTHORITY**

**SUNLINE TRANSIT AGENCY**

By: \_\_\_\_\_  
Mark Goodale  
General Manager

By: \_\_\_\_\_  
Lauren L. Skiver  
CEO/General Manager

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

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

APPROVED AS TO FORM:

APPROVED AS TO FORM:

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

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

Name/Title: \_\_\_\_\_

Name/Title: \_\_\_\_\_

DRAFT

# Appendix F – Draft Agreements/MOUs

## Service Planning

**COOPERATIVE AGREEMENT NO XXX**  
**BY AND BETWEEN SAN BERNARDINO ASSOCIATED GOVERNMENTS**  
**AND**  
**VICTOR VALLEY TRANSIT AUTHORITY**  
**FOR**  
**TEMPORARY FURNISHING OF STAFF ASSISTANCE FOR TRANSIT**  
**SERVICE PLANNING**

**THIS COOPERATIVE AGREEMENT** (“Agreement”) is effective on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the San Bernardino Associated Governments/San Bernardino Transportation Authority (“SANBAG”), whose address is 1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor, San Bernardino, California 92410-1715, and Victor Valley Transit Authority (“VVTA”), a public agency formed under a Joint Powers Agreement, whose address is address, 17150 Smoketree St., Hesperia, California, 92345. SANBAG and VVTA are each a “Party” and collectively are the “Parties” as identified herein.

**RECITALS:**

**WHEREAS**, SANBAG, as the County Transportation Commission and the San Bernardino County Transportation Authority for San Bernardino County, has the responsibility to oversee and coordinate the provision of public transportation services and allocation of local, state and Federal funds for the County; and

**WHEREAS**, VVTA provides Dial-a-Ride and Fixed Route public transportation services throughout the Victor Valley Subarea cities of Adelanto, Hesperia, Victorville, the Town of Apple Valley, and San Bernardino County communities of Helendale, Lucerne Valley, Oro Grande, Phelan, Pinon Hills, Silver Lakes, and Wrightwood, as well as the Barstow Area Transit service area. VVTA also provides B-V Link Lifeline service between Barstow, Victor Valley, and San Bernardino Valley, and NTC Commuter Service from Victorville and Barstow to and from Fort Irwin. Additionally, VVTA is responsible for the oversight of the volunteer driver programs in Trona and Big River; and

**WHEREAS**, VVTA has an on-going need for periodic transit service planning assistance (the “Project”) due to its limited staff; and

**WHEREAS**, SANBAG has certain transit service planning staff and On-Call Consultants under Contract (collectively referred to as SANBAG STAFF) that are or can become available to assist VVTA.

**NOW, THEREFORE**, SANBAG and VVTA in consideration of the mutual covenants hereinafter set forth and intending to be legally bound hereby agree as follows:

**1. Project Management Responsibilities**

- a. Overall Project Management Responsibility for the Project as identified in Exhibit “A” Scope of Work shall remain with VVTA.

- b. VVTA's Project Manager or his/her designee shall provide direction to SANBAG STAFF assisting VVTA on the Project as identified in Exhibit "A" Scope of Work.

## 2. SANBAG Responsibilities

- a. SANBAG shall provide planning support services through a combination of SANBAG STAFF, to VVTA, for support of the Project as identified in Exhibit "A" Scope of Work.
- b. The total not-to-exceed cost for services provided in Exhibit "A" to be reimbursed to SANBAG under this AGREEMENT shall not exceed \$ [REDACTED] over the term of this AGREEMENT, unless subsequently amended by mutual agreement of the Parties. The specific SANBAG STAFF positions, their rates and estimated Other Direct Costs are identified in Exhibit "B" SANBAG Billing Rate Schedule.
- c. SANBAG STAFF selected for this assignment shall be selected by SANBAG with the review and concurrence of the VVTA, and are subject to change. SANBAG shall endeavor to make the SANBAG STAFF selected for services provided on the Project available for a minimum of XX months.
- d. SANBAG STAFF will recognize and follow all applicable rules, regulations or policies established by VVTA affecting or pertaining to operation of the Project site, when SANBAG STAFF are performing services.
- e. SANBAG STAFF shall work as needed per Exhibit "A" Scope of Work, but not to exceed a forty (40) hour workweek and shall be on the same schedule as SANBAG's regular employees unless other work schedule arrangements are agreed in writing.
- f. SANBAG STAFF working on the Project shall acknowledge that certain confidential or proprietary information belonging to VVTA may become available to them, and as such, shall maintain such confidentiality.
- g. SANBAG STAFF are assigned to VVTA only for the purposes and to the extent set forth in this Agreement. SANBAG STAFF'S relationship to VVTA and its subsidiaries and clients shall during the period of this assignment and services hereunder be that of a SANBAG employee or independent consultant, as applicable, working in a professional manner. SANBAG STAFF shall not be considered as having an employee status with VVTA or being entitled to participate in any plans or benefits of VVTA for its regular employees. SANBAG assumes full responsibility for all employment contributions, taxes, withholding, etc, under any state and local laws, as applicable.
- h. SANBAG shall invoice VVTA no more frequently than monthly, and no less than quarterly for the services provided for that period, based on actual hours worked and using the fully-burdened hourly rates for direct employees, and the approved hourly billing rates for assigned consultant staff. Such fully-burdened hourly rates shall be specific to each position type, will be disclosed to VVTA in advance, and will be consistent with the labor rate in Exhibit "B". SANBAG'S fully-burdened employee hourly rates shall include employee labor rates, fringe, benefits and overhead items such as workers' compensation, insurance, computers, office space and phone. For SANBAG

On-Call Consultants assigned to the Project, SANBAG shall invoice VVTA the amount so billed from the On-Call Consultants during the invoice period. With each invoice, SANBAG shall also identify any actual Project-related administrative, travel and other direct costs incurred by SANBAG STAFF in managing VVTA's project. Mileage shall be billed based on the current, approved Internal Revenue Service rate. However, SANBAG shall not apply a flat administrative fee or percentage.

### **3. VVTA Responsibilities**

- a. VVTA shall direct and control the work activities of the SANBAG STAFF regarding the Project as identified in Exhibit "A" Scope of Work, and shall be responsible for providing a safe place to work in compliance with all safety laws and regulations while working at VVTA-designated work site(s). VVTA is not responsible for the health or safety of any SANBAG STAFF due to injuries or property damage caused by others not within the control of VVTA at any Project site.
- b. VVTA shall furnish SANBAG STAFF a copy of applicable rules, regulations and policies that VVTA deems necessary to implement the provisions in Section 2.d above.
- c. VVTA strictly agrees that it shall not induce, passively or actively solicit, approach or hire any of the SANBAG STAFF so long as this agreement is in effect and for a period of one (1) year thereafter except if mutually agreed in writing by SANBAG, VVTA, and, if applicable, on-call consultants under contract, on a case by case basis.
- d. Upon receipt of the SANBAG invoice, VVTA shall approve and make prompt payment on all invoices or explain in writing to the SANBAG Contact identified in Section 8 below (or designee), the reason for disapproval of any item within 10 business days of receipt. VVTA payment for undisputed invoice amounts shall be made within 30 days of receipt of invoice.

### **4. SANBAG and VVTA Joint Responsibilities**

- a. If SANBAG STAFF is deemed by VVTA or SANBAG to be unqualified to perform the assignment contracted for, VVTA may request the removal and/or replacement of the SANBAG STAFF.
- b. Overtime hours shall be defined by SANBAG and approved by VVTA, and SANBAG STAFF shall not be directed by VVTA to work Overtime hours, unless agreed to in writing by both Parties.

### **5. Indemnification**

- a. Neither SANBAG nor any officer or employee or agent thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by VVTA and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon VVTA under this Agreement. It is understood and agreed that VVTA will fully defend, indemnify, and save harmless SANBAG and all of its officers, employees and agents from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories or

assertions of liability occurring by reason of anything done or omitted to be done by VVTA and/or its agents under this Agreement.

- b. Neither VVTA nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by SANBAG and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon SANBAG under this Agreement. It is understood and agreed that SANBAG will fully defend, indemnify, and save harmless VVTA and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by SANBAG and/or its agents under this Agreement.

- 6. **Venue.** This AGREEMENT shall be construed and interpreted solely in accordance with the laws of the State of California.
- 7. **Binding Provisions.** The persons executing this AGREEMENT on behalf of the Parties hereto warrant that they are duly authorized to execute this AGREEMENT on behalf of said Parties and that, by so executing this AGREEMENT, the Parties hereto are formally bound to the provisions of this AGREEMENT.
- 8. **Notices.** All notices hereunder and communications required or permitted by this AGREEMENT, or changes thereto, or by law to be served on, given to or delivered to any other Party hereto by any other Party to this AGREEMENT shall be in writing or authorized in writing, and may be sent by regular mail, email or FAX. Any such notice shall be addressed to:

**Notices to SANBAG:**

Name: Raymond W. Wolfe  
Title: Executive Director  
Address: 1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor  
City, State Zip: San Bernardino, California, 92410  
Email: [rwolfe@sanbag.ca.gov](mailto:rwolfe@sanbag.ca.gov)  
FAX: 909-885-4407

**Notices to VVTA:**

Name: Mr. Kevin Kane  
Title: Executive Director  
Address: 17150 Smoketree St  
City, State Zip: Hesperia, California, 92345  
Email: [kkane@vta.org](mailto:kkane@vta.org)  
FAX: 760-948-1380

- 9. **Other Provisions.**
  - a. The headings of all sections of this AGREEMENT are inserted solely for the convenience of reference and are not part of and not intended to govern, limit, or aid in the construction or interpretation of any terms or provision thereof.

- b. The provision of this AGREEMENT shall bind and inure to the benefit of each of the Parties hereto and all successors or assigns of the Parties hereto.
- c. If any term, provision, covenant, or condition of this AGREEMENT is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder to this AGREEMENT shall not be affected thereby, and each term, provision, covenant or condition of this AGREEMENT shall be valid and enforceable to the fullest extent permitted by law.
- d. This AGREEMENT may be executed and delivered in any number of counterparts, each of which, when executed and delivered shall be deemed an original and all of which together shall constitute the same AGREEMENT. Secure electronic signatures will be permitted.
- e. This AGREEMENT may be amended in writing at any time by the mutual consent of the Parties. No amendment shall have any force or effect unless executed in writing by the Parties. The Parties agree that minor administrative changes, such as changes in assigned staff, modifications to scope-of-work elements, etc., may be approved administratively without re-approval by the Agencies' Boards of Directors.
- f. SANBAG or VVTA may terminate this AGREEMENT, without cause, by delivering written notice of termination to the other Party not less than thirty (30) calendar days before the date of termination. In the event that services are underway at the time such notice of termination is issued, SANBAG and its on-call consultants, if assigned to the project, shall follow the termination provisions of the on-call contracts and any outstanding services up to the date of termination shall be paid for in accordance with AGREEMENT terms before termination of this AGREEMENT shall be complete.
- g. Neither this AGREEMENT, nor any of a Party's rights, obligations or duties hereunder may be assigned in whole or in part by either Party without the prior written consent of the other Party. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.
- h. The Parties warrant that, in the performance of this AGREEMENT, they shall comply with all applicable federal, state and local laws, statutes and ordinances and lawful orders, rules and regulations promulgated thereunder.
- i. Either Party shall be excused from performing its obligations under this AGREEMENT during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood, acts of God, commandeering of material, products, plants or facilities by the federal, state or local government, national fuel shortage, or a material act or omission by the other Party, when satisfactory evidence of such cause is presented to the other Party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the Party not performing.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first above written.



**San Bernardino Associated Governments**

**Victor Valley Transit Authority**

By: \_\_\_\_\_  
Raymond W. Wolfe  
Executive Director

By: \_\_\_\_\_  
Kevin Kane  
Executive Director

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

APPROVED AS TO FORM:

APPROVED AS TO FORM:

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

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

Name/Title: \_\_\_\_\_

Name/Title: \_\_\_\_\_

DRAFT

**EXHIBIT “A”  
DRAFT  
SCOPE OF WORK**

Victor Valley Transit Authority is in need of on-going transit service planning assistance (the “Project”) to support its on-going transit services. SANBAG staff or on-call consultants (collectively, “SANBAG STAFF”) will provide support to VVTA to advance the Project. The following discussion provides a high-level description of the services SANBAG STAFF can supply to VVTA. More detailed scope of work elements will be discussed and agreed to between the Parties.

SANBAG staff will provide transit service planning assistance. Key elements may include but are not limited to:

**Task Area 1: Initial system Assessment**

SANBAG STAFF can support VVTA in conducting an initial system assessment, identifying schedule adherence issues, route segment ridership utilization, new route planning and scheduling, bus stop improvement needs, and other service planning-related needs. From this assessment, SANBAG STAFF, working with VVTA, will identify potential corrective measures for implementation by VVTA.

**Task Area 2: On-going Service Planning and Monitoring**

SANBAG STAFF can support VVTA in conducting on-going route performance monitoring and analysis, identification of potential route adjustment needs in between SRTP cycles, or assistance on “shake-up” service changes.

**Task Area 3: Other Special or One-Time Planning Projects**

SANBAG STAFF can support VVTA in conducting special planning studies or one-time planning projects.

**EXHIBIT "B"**  
**SANBAG BILLING RATE SCHEDULE AND OTHER DIRECT COSTS**  
**FOR TRANSIT SERVICE PLANNING ASSISTANCE FOR VVTA**

SANBAG Staff and/or On-Call Consultants likely to be assigned to Project, may include:

Position	Fully Burdened Hourly Rate*	Not-to-Exceed Hours	Total Costs
TBD based on further discussions of agency needs			
<b>Subtotal</b>			

\*These rates are based on current SANBAG budgeted rates for fully burdened employees and On Call Consultants. Hourly rates are subject to change over time based on employee salary and benefit increases as well as Consultant contract costs.

Other Direct Costs anticipated during the course of Project, may include but not be limited to:

Expense Category	Units	Cost	Line Item Costs
Miles			
Travel			
Printing/shipping/postage			
<b>Subtotal</b>			

<b>Grand Total Project Costs</b>	
----------------------------------	--

**COOPERATIVE AGREEMENT NO XXX**  
**BY AND BETWEEN SAN BERNARDINO ASSOCIATED GOVERNMENTS**  
**AND**  
**MOUNTAIN AREA REGIONAL TRANSIT AUTHORITY**  
**FOR**  
**TEMPORARY FURNISHING OF STAFF ASSISTANCE FOR TRANSIT**  
**SERVICE PLANNING**

**THIS COOPERATIVE AGREEMENT** (“Agreement”) is effective on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the San Bernardino Associated Governments/San Bernardino Transportation Authority (“SANBAG”), whose address is 1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor, San Bernardino, California 92410-1715, and Mountain Area Regional Transit Authority (Mountain Transit, or “MT”), a public agency formed under a Joint Powers Agreement, whose address is 41939 Fox Farm Road, Big Bear Lake, California, 92315. SANBAG and MT are each a “Party” and collectively are the “Parties” as identified herein.

**RECITALS:**

**WHEREAS**, SANBAG, as the County Transportation Commission and the San Bernardino County Transportation Authority for San Bernardino County, has the responsibility to oversee and coordinate the provision of public transportation services and allocation of local, state and Federal funds for the County; and

**WHEREAS**, MT provides Dial-a-Ride and Fixed Route public transportation service throughout the rural San Bernardino Mountain communities of the Big Bear Valley, Crestline, Lake Arrowhead, and Running Springs. Mountain Transit also provides Off-the-Mountain commuter service between these communities and the city of San Bernardino; and

**WHEREAS**, MT has an on-going need for periodic transit service planning assistance (the “Project”) due to its limited staff; and

**WHEREAS**, SANBAG has certain transit service planning staff and On-Call Consultants under Contract (collectively referred to as SANBAG STAFF) that are or can become available to assist MT;

**NOW, THEREFORE**, SANBAG and MT in consideration of the mutual covenants hereinafter set forth and intending to be legally bound hereby agree as follows:

**1. Project Management Responsibilities**

- a. Overall Project Management Responsibility for the Project as identified in Exhibit “A” Scope of Work shall remain with MT.
- b. MT’s Project Manager or his/her designee shall provide direction to SANBAG STAFF assisting MT on the Project as identified in Exhibit “A” Scope of Work.

## 2. SANBAG Responsibilities

- a. SANBAG shall provide planning support services through a combination of SANBAG STAFF, to MT, for support of the Project as identified in Exhibit "A" Scope of Work.
- b. The total not-to-exceed cost for services provided in Exhibit "A" to be reimbursed to SANBAG under this AGREEMENT shall not exceed \$ [REDACTED] over the term of this AGREEMENT, unless subsequently amended by mutual agreement of the Parties. The specific SANBAG STAFF positions, their rates and estimated Other Direct Costs are identified in Exhibit "B" SANBAG Billing Rate Schedule.
- c. SANBAG STAFF selected for this assignment shall be selected by SANBAG with the review and concurrence of the MT, and are subject to change. SANBAG shall endeavor to make the SANBAG STAFF selected for services provided on the Project available for a minimum of XX months.
- d. SANBAG STAFF will recognize and follow all applicable rules, regulations or policies established by MT affecting or pertaining to operation of the Project site, when SANBAG STAFF are performing services.
- e. SANBAG STAFF shall work as needed per Exhibit "A" Scope of Work, but not to exceed a forty (40) hour workweek and shall be on the same schedule as SANBAG's regular employees unless other work schedule arrangements are agreed in writing.
- f. SANBAG STAFF working on the Project shall acknowledge that certain confidential or proprietary information belonging to MT may become available to them, and as such, shall maintain such confidentiality.
- g. SANBAG STAFF are assigned to MT only for the purposes and to the extent set forth in this Agreement. SANBAG STAFF'S relationship to MT and its subsidiaries and clients shall during the period of this assignment and services hereunder be that of a SANBAG employee or independent consultant, as applicable, working in a professional manner. SANBAG STAFF shall not be considered as having an employee status with MT or being entitled to participate in any plans or benefits of MT for its regular employees. SANBAG assumes full responsibility for all employment contributions, taxes, withholding, etc, under any state and local laws, as applicable.
- h. SANBAG shall invoice MT no more frequently than monthly, and no less than quarterly for the services provided for that period, based on actual hours worked and using the fully-burdened hourly rates for direct employees, and the approved hourly billing rates for assigned consultant staff. Such fully-burdened hourly rates shall be specific to each position type, will be disclosed to MT in advance, and will be consistent with the labor rate in Exhibit "B". SANBAG'S fully-burdened employee hourly rates shall include employee labor rates, fringe, benefits and overhead items such as workers' compensation, insurance, computers, office space and phone. For SANBAG On-Call Consultants assigned to the Project, SANBAG shall invoice MT the amount so billed from the On-Call Consultants during the invoice period. With each invoice, SANBAG shall also identify any actual Project-related administrative, travel and other direct costs incurred by SANBAG STAFF in managing MT's project. Mileage shall be billed based on the current,

approved Internal Revenue Service rate. However, SANBAG shall not apply a flat administrative fee or percentage.

### **3. MT Responsibilities**

- a. MT shall direct and control the work activities of the SANBAG STAFF regarding the Project as identified in Exhibit "A" Scope of Work, and shall be responsible for providing a safe place to work in compliance with all safety laws and regulations while working at MT-designated work site(s). MT is not responsible for the health or safety of any SANBAG STAFF due to injuries or property damage caused by others not within the control of MT at any Project site.
- b. MT shall furnish SANBAG STAFF a copy of applicable rules, regulations and policies that MT deems necessary to implement the provisions in Section 2.d above.
- c. MT strictly agrees that it shall not induce, passively or actively solicit, approach or hire any of the SANBAG STAFF so long as this agreement is in effect and for a period of one (1) year thereafter except if mutually agreed in writing by SANBAG, MT, and, if applicable, on-call consultants under contract, on a case by case basis.
- d. Upon receipt of the SANBAG invoice, MT shall approve and make prompt payment on all invoices or explain in writing to the SANBAG Contact identified in Section 8 below (or designee), the reason for disapproval of any item within 10 business days of receipt. MT payment for undisputed invoice amounts shall be made within 30 days of receipt of invoice.

### **4. SANBAG and MT Joint Responsibilities**

- a. If SANBAG STAFF is deemed by MT or SANBAG to be unqualified to perform the assignment contracted for, MT may request the removal and/or replacement of the SANBAG STAFF.
- b. Overtime hours shall be defined by SANBAG and approved by MT, and SANBAG STAFF shall not be directed by MT to work Overtime hours, unless agreed to in writing by both Parties.

### **5. Indemnification**

- a. Neither SANBAG nor any officer or employee or agent thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by MT and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon MT under this Agreement. It is understood and agreed that MT will fully defend, indemnify, and save harmless SANBAG and all of its officers, employees and agents from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by MT and/or its agents under this Agreement.
- b. Neither MT nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by SANBAG and/or its agents under or in connection with any work, authority, or jurisdiction conferred upon SANBAG under this Agreement. It is understood and agreed that SANBAG will fully defend, indemnify, and save harmless MT

and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by SANBAG and/or its agents under this Agreement.

6. **Venue.** This AGREEMENT shall be construed and interpreted solely in accordance with the laws of the State of California.
7. **Binding Provisions.** The persons executing this AGREEMENT on behalf of the Parties hereto warrant that they are duly authorized to execute this AGREEMENT on behalf of said Parties and that, by so executing this AGREEMENT, the Parties hereto are formally bound to the provisions of this AGREEMENT.
8. **Notices.** All notices hereunder and communications required or permitted by this AGREEMENT, or changes thereto, or by law to be served on, given to or delivered to any other Party hereto by any other Party to this AGREEMENT shall be in writing or authorized in writing, and may be sent by regular mail, email or FAX. Any such notice shall be addressed to:

**Notices to SANBAG:**

Name: Raymond W. Wolfe  
Title: Executive Director  
Address: 1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor  
City, State Zip: San Bernardino, California, 92410  
Email: [rwolfe@sanbag.ca.gov](mailto:rwolfe@sanbag.ca.gov)  
FAX: 909-885-4407

**Notices to the MT:**

Name: Ms. Kathy Hawksford  
Title: General Manager/Chief Executive Officer  
Physical Address: 41939 Fox Farm Road  
Mailing Address: PO Box 1501  
City, State Zip: Big Bear Lake, California, 92315  
Email: [khawksford@mountaintransit.org](mailto:khawksford@mountaintransit.org)  
FAX: 909-963-7200

9. **Other Provisions.**
  - a. The headings of all sections of this AGREEMENT are inserted solely for the convenience of reference and are not part of and not intended to govern, limit, or aid in the construction or interpretation of any terms or provision thereof.
  - b. The provision of this AGREEMENT shall bind and inure to the benefit of each of the Parties hereto and all successors or assigns of the Parties hereto.
  - c. If any term, provision, covenant, or condition of this AGREEMENT is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder to this AGREEMENT shall not be affected thereby, and each term, provision, covenant or condition of this AGREEMENT shall be valid and enforceable to the fullest extent permitted by law.

- d. This AGREEMENT may be executed and delivered in any number of counterparts, each of which, when executed and delivered shall be deemed an original and all of which together shall constitute the same AGREEMENT. Secure electronic signatures will be permitted.
- e. This AGREEMENT may be amended in writing at any time by the mutual consent of the Parties. No amendment shall have any force or effect unless executed in writing by the Parties. The Parties agree that minor administrative changes, such as changes in assigned staff, modifications to scope-of-work elements, etc., may be approved administratively without re-approval by the Agencies' Boards of Directors.
- f. SANBAG or MT may terminate this AGREEMENT, without cause, by delivering written notice of termination to the other Party not less than thirty (30) calendar days before the date of termination. In the event that services are underway at the time such notice of termination is issued, SANBAG and its on-call consultants, if assigned to the project, shall follow the termination provisions of the on-call contracts and any outstanding services up to the date of termination shall be paid for in accordance with AGREEMENT terms before termination of this AGREEMENT shall be complete.
- g. Neither this AGREEMENT, nor any of a Party's rights, obligations or duties hereunder may be assigned in whole or in part by either Party without the prior written consent of the other Party. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.
- h. The Parties warrant that, in the performance of this AGREEMENT, they shall comply with all applicable federal, state and local laws, statutes and ordinances and lawful orders, rules and regulations promulgated thereunder.
- i. Either Party shall be excused from performing its obligations under this AGREEMENT during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood, acts of God, commandeering of material, products, plants or facilities by the federal, state or local government, national fuel shortage, or a material act or omission by the other Party, when satisfactory evidence of such cause is presented to the other Party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the Party not performing.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first above written.



**San Bernardino Associated Governments**

**Mountain Transit**

By: \_\_\_\_\_  
Raymond W. Wolfe  
Executive Director

By: \_\_\_\_\_  
Kathy Hawksford  
General Manager/CEO

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

APPROVED AS TO FORM:

APPROVED AS TO FORM:

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

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

Name/Title: \_\_\_\_\_

Name/Title: \_\_\_\_\_

DRAFT

**EXHIBIT “A”  
DRAFT  
SCOPE OF WORK**

Mountain Transit is in need of on-going transit service planning assistance (the “Project”) to support its on-going transit services. SANBAG staff or on-call consultants (collectively, “SANBAG STAFF”) will provide support to MT to advance the Project. The following discussion provides a high-level description of the services SANBAG STAFF can supply to MT. More detailed scope of work elements will be discussed and agreed to between the Parties.

SANBAG staff will provide transit service planning assistance. Key elements may include but are not limited to:

**Task Area 1: Initial system Assessment**

SANBAG STAFF can support MT in conducting an initial system assessment, identifying schedule adherence issues, route segment ridership utilization, new route planning and scheduling, bus stop improvement needs, and other service planning-related needs. From this assessment, SANBAG STAFF, working with MT, will identify potential corrective measures for implementation by MT.

**Task Area 2: On-going Service Planning and Monitoring**

SANBAG STAFF can support MT in conducting on-going route performance monitoring and analysis, identification of potential route adjustment needs in between SRTP cycles, or assistance on “shake-up” service changes.

**Task Area 3: Other Special or One-Time Planning Projects**

SANBAG STAFF can support MT in conducting special planning studies or one-time planning projects.

**EXHIBIT "B"**  
**SANBAG BILLING RATE SCHEDULE AND OTHER DIRECT COSTS**  
**FOR TRANSIT SERVICE PLANNING ASSISTANCE FOR MT**

SANBAG Staff and/or On-Call Consultants likely to be assigned to Project, may include:

Position	Fully Burdened Hourly Rate*	Not-to-Exceed Hours	Total Costs
TBD based on further discussions of agency needs			
<b>Subtotal</b>			

\*These rates are based on current SANBAG budgeted rates for fully burdened employees and On Call Consultants. Hourly rates are subject to change over time based on employee salary and benefit increases as well as Consultant contract costs.

Other Direct Costs anticipated during the course of Project, may include but not be limited to:

Expense Category	Units	Cost	Line Item Costs
Miles			
Travel			
Printing/shipping/postage			
<b>Subtotal</b>			

<b>Grand Total Project Costs</b>	
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**COOPERATIVE AGREEMENT NO XXX**  
**BY AND BETWEEN SAN BERNARDINO ASSOCIATED GOVERNMENTS**  
**AND**  
**MORONGO BASIN TRANSIT AUTHORITY**  
**FOR**  
**TEMPORARY FURNISHING OF STAFF ASSISTANCE FOR TRANSIT**  
**SERVICE PLANNING**

**THIS COOPERATIVE AGREEMENT** (“Agreement”) is effective on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the San Bernardino Associated Governments/San Bernardino Transportation Authority (“SANBAG”), whose address is 1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor, San Bernardino, California 92410-1715, and Morongo Basin Transit Authority (“MBTA”), a public agency formed under a Joint Powers Agreement, whose address is 62405 Verbena Road, Joshua Tree, California, 92252. SANBAG and MBTA are each a “Party” and collectively are the “Parties” as identified herein.

**RECITALS:**

**WHEREAS**, SANBAG, as the County Transportation Commission and the San Bernardino County Transportation Authority for San Bernardino County, has the responsibility to oversee and coordinate the provision of public transportation services and allocation of local, state and Federal funds for the County; and

**WHEREAS**, MBTA provides Dial-a-Ride, Fixed-Route, and Deviated Fixed-Route public transportation service in ten communities of San Bernardino County including Joshua Tree, Twentynine Palms, Yucca Valley, Morongo Valley, and Landers. MBTA also provides commuter and weekend service between Twentynine Palms Marine Corps Base and Palm Springs, California; and

**WHEREAS**, MBTA is in need of on-going transit service planning assistance (the “Project”) to support its on-going transit services; and

**WHEREAS**, SANBAG staff or on-call consultants (collectively, “SANBAG STAFF”) can provide support as requested to MBTA to advance the Project; and

**WHEREAS**, this cooperative agreement provides a high-level description of the services SANBAG STAFF can supply to MBTA, with more detailed scope of work elements to be discussed and agreed to between the Parties;

**NOW, THEREFORE**, SANBAG and MBTA in consideration of the mutual covenants hereinafter set forth and intending to be legally bound hereby agree as follows:

**1. Project Management Responsibilities**

- a. Overall Project Management Responsibility for the Project as identified in Exhibit “A” Scope of Work shall remain with MBTA.

- b. MBTA's Project Manager or his/her designee shall provide direction to SANBAG STAFF assisting MBTA on the Project as identified in Exhibit "A" Scope of Work.

## 2. SANBAG Responsibilities

- a. SANBAG shall provide planning support services through a combination of SANBAG STAFF, to MBTA, for support of the Project as identified in Exhibit "A" Scope of Work.
- b. The total not-to-exceed cost for services provided in Exhibit "A" to be reimbursed to SANBAG under this AGREEMENT shall not exceed \$ [REDACTED] over the term of this AGREEMENT, unless subsequently amended by mutual agreement of the Parties. The specific SANBAG STAFF positions, their rates and estimated Other Direct Costs are identified in Exhibit "B" SANBAG Billing Rate Schedule.
- c. SANBAG STAFF selected for this assignment shall be selected by SANBAG with the review and concurrence of the MBTA, and are subject to change. SANBAG shall endeavor to make the SANBAG STAFF selected for services provided on the Project available for a minimum of XX months.
- d. SANBAG STAFF will recognize and follow all applicable rules, regulations or policies established by MBTA affecting or pertaining to operation of the Project site, when SANBAG STAFF are performing services.
- e. SANBAG STAFF shall work as needed per Exhibit "A" Scope of Work, but not to exceed a forty (40) hour workweek and shall be on the same schedule as SANBAG's regular employees unless other work schedule arrangements are agreed in writing.
- f. SANBAG STAFF working on the Project shall acknowledge that certain confidential or proprietary information belonging to MBTA may become available to them, and as such, shall maintain such confidentiality.
- g. SANBAG STAFF are assigned to MBTA only for the purposes and to the extent set forth in this Agreement. SANBAG STAFF'S relationship to MBTA and its subsidiaries and clients shall during the period of this assignment and services hereunder be that of a SANBAG employee or independent consultant, as applicable, working in a professional manner. SANBAG STAFF shall not be considered as having an employee status with MBTA or being entitled to participate in any plans or benefits of MBTA for its regular employees. SANBAG assumes full responsibility for all employment contributions, taxes, withholding, etc, under any state and local laws, as applicable.
- h. SANBAG shall invoice MBTA no more frequently than monthly, and no less than quarterly for the services provided for that period, based on actual hours worked and using the fully-burdened hourly rates for direct employees, and the approved hourly billing rates for assigned consultant staff. Such fully-burdened hourly rates shall be specific to each position type, will be disclosed to MBTA in advance, and will be consistent with the labor rate in Exhibit "B". SANBAG'S fully-burdened employee hourly rates shall include employee labor rates, fringe, benefits and overhead items such as workers' compensation, insurance, computers, office space and phone. For SANBAG On-Call Consultants assigned to the Project, SANBAG shall invoice MBTA

the amount so billed from the On-Call Consultants during the invoice period. With each invoice, SANBAG shall also identify any actual Project-related administrative, travel and other direct costs incurred by SANBAG STAFF in managing MBTA's project. Mileage shall be billed based on the current, approved Internal Revenue Service rate. However, SANBAG shall not apply a flat administrative fee or percentage.

### **3. MBTA Responsibilities**

- a. MBTA shall direct and control the work activities of the SANBAG STAFF regarding the Project as identified in Exhibit "A" Scope of Work, and shall be responsible for providing a safe place to work in compliance with all safety laws and regulations while working at MBTA-designated work site(s). MBTA is not responsible for the health or safety of any SANBAG STAFF due to injuries or property damage caused by others not within the control of MBTA at any Project site.
- b. MBTA shall furnish SANBAG STAFF a copy of applicable rules, regulations and policies that MBTA deems necessary to implement the provisions in Section 2.d above.
- c. MBTA strictly agrees that it shall not induce, passively or actively solicit, approach or hire any of the SANBAG STAFF so long as this agreement is in effect and for a period of one (1) year thereafter except if mutually agreed in writing by SANBAG, MBTA, and, if applicable, on-call consultants under contract, on a case by case basis.
- d. Upon receipt of the SANBAG invoice, MBTA shall approve and make prompt payment on all invoices or explain in writing to the SANBAG Contact identified in Section 8 below (or designee), the reason for disapproval of any item within 10 business days of receipt. MBTA payment for undisputed invoice amounts shall be made within 30 days of receipt of invoice.

### **4. SANBAG and MBTA Joint Responsibilities**

- a. If SANBAG STAFF is deemed by MBTA or SANBAG to be unqualified to perform the assignment contracted for, MBTA may request the removal and/or replacement of the SANBAG STAFF.
- b. Overtime hours shall be defined by SANBAG and approved by MBTA, and SANBAG STAFF shall not be directed by MBTA to work Overtime hours, unless agreed to in writing by both Parties.

### **5. Indemnification**

- a. To the fullest extent permitted by law, MBTA shall protect, indemnify, defend and hold harmless SANBAG and any and all of its officials, employees, volunteers, and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, and costs and expenses (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees) where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the negligence, recklessness, or willful misconduct of MBTA, its officers, agents,

employees or subconsultants, or any entity or individual that MBTA shall bear the legal liability thereof.

b. To the fullest extent permitted by law, SANBAG shall protect, indemnify, defend and hold harmless MBTA and any and all of its officials, employees, volunteers, and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, and costs and expenses (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees) where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the negligence, recklessness, or willful misconduct of SANBAG, its officers, agents, employees or subconsultants, or any entity or individual that SANBAG shall bear the legal liability thereof.

6. **Venue.** This AGREEMENT shall be construed and interpreted solely in accordance with the laws of the State of California.
7. **Binding Provisions.** The persons executing this AGREEMENT on behalf of the Parties hereto warrant that they are duly authorized to execute this AGREEMENT on behalf of said Parties and that, by so executing this AGREEMENT, the Parties hereto are formally bound to the provisions of this AGREEMENT.
8. **Notices.** All notices hereunder and communications required or permitted by this AGREEMENT, or changes thereto, or by law to be served on, given to or delivered to any other Party hereto by any other Party to this AGREEMENT shall be in writing or authorized in writing, and may be sent by regular mail, email or FAX. Any such notice shall be addressed to:

**Notices to SANBAG:**

Name: Raymond W. Wolfe  
Title: Executive Director  
Address: 1170 W. 3<sup>rd</sup> Street, 2<sup>nd</sup> Floor  
City, State Zip: San Bernardino, California, 92410  
Email: [rwolfe@sanbag.ca.gov](mailto:rwolfe@sanbag.ca.gov)  
FAX: 909-885-4407

**Notices to the MBTA:**

Name: Mark Goodale  
Title: General Manager  
Physical Address: 62405 Verbena Road  
City, State Zip: Joshua Tree, California, 92252  
Email: [mark@mbtabus.com](mailto:mark@mbtabus.com)  
FAX: 760-366-2445

**9. Other Provisions.**

- a. The headings of all sections of this AGREEMENT are inserted solely for the convenience of reference and are not part of and not intended to govern, limit, or aid in the construction or interpretation of any terms or provision thereof.
- b. The provision of this AGREEMENT shall bind and inure to the benefit of each of the Parties hereto and all successors or assigns of the Parties hereto.
- c. If any term, provision, covenant, or condition of this AGREEMENT is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder to this AGREEMENT shall not be affected thereby, and each term, provision, covenant or condition of this AGREEMENT shall be valid and enforceable to the fullest extent permitted by law.
- d. This AGREEMENT may be executed and delivered in any number of counterparts, each of which, when executed and delivered shall be deemed an original and all of which together shall constitute the same AGREEMENT. Secure electronic signatures will be permitted.
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- f. SANBAG or MBTA may terminate this AGREEMENT, without cause, by delivering written notice of termination to the other Party not less than thirty (30) calendar days before the date of termination. In the event that services are underway at the time such notice of termination is issued, SANBAG and its on-call consultants, if assigned to the project, shall follow the termination provisions of the on-call contracts and any outstanding services up to the date of termination shall be paid for in accordance with AGREEMENT terms before termination of this AGREEMENT shall be complete.
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- h. The Parties warrant that, in the performance of this AGREEMENT, they shall comply with all applicable federal, state and local laws, statutes and ordinances and lawful orders, rules and regulations promulgated thereunder.
- i. Either Party shall be excused from performing its obligations under this AGREEMENT during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood, acts of God, commandeering of material, products, plants or facilities by the federal, state or local government, national fuel shortage, or a material act or omission by the other Party, when satisfactory evidence of such cause is presented to the other Party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the Party not performing.



IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first above written.

**San Bernardino Associated Governments**

**Morongo Basin Transit Authority**

By: \_\_\_\_\_  
Raymond W. Wolfe  
Executive Director

By: \_\_\_\_\_  
Mark Goodale  
General Manager

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

APPROVED AS TO FORM:

APPROVED AS TO FORM:

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

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

Name/Title: \_\_\_\_\_

Name/Title: \_\_\_\_\_

**EXHIBIT “A”  
DRAFT  
SCOPE OF WORK**

Morongo Basin Transit Authority is in need of on-going transit service planning assistance (the “Project”) to support its on-going transit services. SANBAG staff or on-call consultants (collectively, “SANBAG STAFF”) will provide support to MBTA to advance the Project. The following discussion provides a high-level description of the services SANBAG STAFF will supply to MBTA. More detailed scope of work elements will be discussed and agreed to between the Parties.

SANBAG staff will provide transit service planning assistance. Key elements may include but are not limited to:

**Task Area 1: Initial system Assessment**

SANBAG STAFF can support MBTA in conducting an initial system assessment, identifying schedule adherence issues, route segment ridership utilization, new route planning and scheduling, bus stop improvement needs, and other service planning-related needs. From this assessment, SANBAG STAFF, working with MBTA, will identify potential corrective measures for implementation by MBTA.

**Task Area 2: On-going Service Planning and Monitoring**

SANBAG STAFF can support MBTA in conducting on-going route performance monitoring and analysis, identification of potential route adjustment needs in between SRTP cycles, or assistance on “shake-up” service changes.

**Task Area 3: Other Special or One-Time Planning Projects**

SANBAG STAFF can support MBTA in conducting special planning studies or one-time planning projects.

**EXHIBIT "B"**  
**SANBAG BILLING RATE SCHEDULE AND OTHER DIRECT COSTS**  
**FOR TRANSIT SERVICE PLANNING ASSISTANCE FOR MBTA**

SANBAG Staff and/or On-Call Consultants likely to be assigned to Project, may include:

Position	Fully Burdened Hourly Rate*	Not-to-Exceed Hours	Total Costs
TBD based on further discussions of agency needs			
<b>Subtotal</b>			

\*These rates are based on current SANBAG budgeted rates for fully burdened employees and On Call Consultants. Hourly rates are subject to change over time based on employee salary and benefit increases as well as Consultant contract costs.

Other Direct Costs anticipated during the course of Project, may include but not be limited to:

Expense Category	Units	Cost	Line Item Costs
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Travel			
Printing/shipping/postage			
<b>Subtotal</b>			

<b>Grand Total Project Costs</b>	
----------------------------------	--