



ORIGINAL

Contract Number
05-324 A-3

SAP Number

Real Estate Services Department

Department Contract Representative	<u>Terry W. Thompson, Director</u>
Telephone Number	<u>(909) 387-5252</u>
Contractor	<u>Omnitrans</u>
Contractor Representative	<u>Christine VanMatre</u>
Telephone Number	<u>379-7122</u>
Contract Term	<u>6/1/2005 -5/31/2025</u>
Original Contract Amount	<u>\$348,890.00</u>
Amendment Amount	<u>\$ 84,530.00</u>
Total Contract Amount	<u>\$433,420,00</u>
Cost Center	<u>7810001000</u>
GRC/PROJ/JOB No.	<u>89002801</u>
Internal Order No.	<u></u>

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS, the County of San Bernardino, as licensor ("COUNTY") and Omnitrans, as licensee ("LICENSEE"), have previously entered into a License Agreement, Contract No. 05-324 dated May 3, 2005, as amended by the First Amendment dated June 15, 2010, and the Second Amendment dated May 19, 2015, (collectively "the License"), wherein COUNTY licenses certain premises, as more specifically set forth in the License, to LICENSEE for a term that is scheduled to expire May 31, 2020, and;

WHEREAS, the premises licensed to LICENSEE is subject to a Communications Use Lease between the United States Department of America on behalf of the United States Agriculture – Forest Service (USFS) and the COUNTY, Lease Agreement No. 97-82 dated February 4, 1997 ("Master Lease"), which Master Lease expired on December 31, 2016;

WHEREAS, by permission of the USFS in a letter to COUNTY dated May 3, 2016, the COUNTY remains in occupancy of the premises leased from USFS on the same terms and conditions of the Master Lease while the COUNTY's application for a lease renewal is processed by USFS;

WHEREAS, COUNTY and LICENSEE agree that the License, including this amendment, shall be subject to the Master Lease;

WHEREAS, the COUNTY and LICENSEE now desire to amend the License to extend the term of the License from June 1, 2020 through May 31, 2025 due to LICENSEE's exercise of its extension option unless

the License is earlier terminated, affirm that the License is subject to the Master Lease, and amend certain other terms and conditions of the License as more specifically set forth in this amendment ("Third Amendment").

NOW, THEREFORE, in consideration of mutual covenants and conditions and the foregoing recitals, which are incorporated herein by reference, the parties hereto agree the License is amended as follows:

1. Effective June 1, 2020 pursuant to Paragraph 5.3 of Section V., EFFECTIVE DATE AND TERMINATION, EXTEND the term of the License for the term commencing June 1, 2020 and ending on May 31, 2025 unless the License is earlier terminated ("Third Extended Term") at the rates set forth in Section VI, as amended in this Third Amendment.

2. Effective June 1, 2020, ADD a new Paragraph 5.4 of Section V, EFFECTIVE DATE AND TERMINATION as follows:

"V. EFFECTIVE DATE AND TERMINATION

5.4 Notwithstanding anything to the contrary in this License, this License, including but not limited to the term of the License and any options to extend said term, shall be subject to the terms and conditions of the Communications Use Lease between the United States Department of America on behalf of the United States Agriculture – Forest Service (USFS) and the COUNTY, Lease Agreement No. 97-82 dated February 4, 1997 ("Master Lease"). The parties acknowledge and agree that as of the date of this Third Amendment, the Master Lease expired on December 31, 2016, but the Master Lease has continued on a permitted holdover by the USFS while the USFS processes a renewal lease. Accordingly, notwithstanding LICENSEE's exercise of its option to extend the term of License pursuant to Paragraph 3.5 of the License, this License shall terminate on the earlier of the date of its expiration (being May 31, 2025, as of the date of this Third Amendment) or the date the Master Lease, including any permitted holdover, terminates. If a renewal master lease is subsequently executed between the COUNTY and USFS, then this License shall be subject to the terms of the renewal master lease as of the effective date of the renewal master lease and this License shall terminate on the earlier of the date of its expiration (being May 31, 2025, as of the date of this Third Amendment) or the date the renewal master lease terminates."

3. Effective June 1, 2020, DELETE in its entirety the existing Paragraph VI., RATES AND PAYMENT TERMS and the existing Exhibit "A", and SUBSTITUTE therefore the following as a new Paragraph VI. RATES AND PAYMENT TERMS, which shall read as follows, and ADD a new Exhibit "A-1", which is attached to this Third Amendment and made a part hereof:

"VI. RATES AND PAYMENT TERMS

Payment rates and conditions are set forth on Exhibit "A-1", "San Bernardino County Rack Space and Antenna Space Service Rates and Payment Terms," attached hereto. Payment of all other invoices shall be due upon receipt and payable monthly by the 1st day of each month. In order to amend this License for a change in service levels, COUNTY will provide to LICENSEE a revised Exhibit "A-1", incorporating such rate change(s) which shall be executed by LICENSEE and returned to COUNTY. LICENSEE's subsequent invoice shall be adjusted in accordance with the change(s), on a prorated basis, as necessary.

Exhibit "A-1" reflects the rates in effect for the duration of the Third Extended Term for the spaces used pursuant to Exhibit "A-1". Checks shall be made payable to the County of San Bernardino.

Annual Rack Space
(pursuant to Exhibit "A-1")

Payment Address is:

County of San Bernardino
Real Estate Services Department
385 N. Arrowhead Avenue
San Bernardino, CA 92415-0180

Escort Fee (pursuant to
Paragraph 3.2.2 of
Section III)

Payment Address is:

County of San Bernardino
Information Services Department
670 E. Gilbert Street, First Floor
San Bernardino, CA 92415-0915
Attn: Administrative Services”

4. Effective June 1, 2020, DELETE in its entirety the existing Paragraph XII., INFORMATION SERVICES DEPARTMENT AUTHORIZATION, and SUBSTITUTE therefore the following as a new Paragraph XII., INFORMATION SERVICES DEPARTMENT AUTHORIZATION, which shall read as follows:

“XII. INFORMATION SERVICES DEPARTMENT AUTHORIZATION

The County’s Information Services Department, through its Chief Information Officer or authorized designee, is authorized to discharge all technical functions ascribed to COUNTY in this License, except those specifically reserved by law to the COUNTY’s Board of Supervisors. The County’s Real Estate Services is authorized to administer all other provisions of this License, except those specifically reserved by law to the COUNTY’s Board of Supervisors.”

5. Effective the date of this Third Amendment, ADD a new Paragraph X1V., COUNTERPARTS, which shall read as follows:

“X1V. COUNTERPARTS

This Third Amendment may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same agreement. For purposes of this Third Amendment only, the parties shall be entitled to sign and transmit an electronic signature of this Third Amendment (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to execute and deliver to the other party an original signed Third Amendment upon request. Unless expressly otherwise set forth in an amendment, any subsequent amendments to the Lease shall be executed by original signatures only.”

6. All other provisions and terms of the License shall remain the same and are hereby incorporated by reference. In the event of any conflict between the License and this Third Amendment, the terms of this Third Amendment shall control.

END OF THIRD AMENDMENT

COUNTY: COUNTY OF SAN BERNARDINO

OMNITRANS

Curt Hagman, Chairman, Board of Supervisors

Dated: _____
SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

Lynna Monell
Clerk of the Board of Supervisors
of the County of San Bernardino

By _____
Deputy

By ▶ Erin Rogers

Name Erin Rogers
(Print or type name of person signing contract)

Title Interim CEO/GM
(Print or Type)

Dated: _____

Address _____

Approved as to Legal Form

▶ [Signature]
Agnes Cheng, Deputy County Counsel

Date 4/16/20

Reviewed for Contract Compliance

▶ _____

Date _____

Reviewed/Approved by Department

▶ _____
Jim Miller, Real Property Manager, RESD

Date _____

EXHIBIT "A-1"

**SAN BERNARDINO COUNTY RACK SPACE AND ANTENNA SPACE
SERVICE RATES AND PAYMENT TERMS**

SERVICES TO BE PROVIDED

The following Rack Space and Antenna Space service(s) selected by check mark shall be rendered to Licensee under this License:

- Rack Space Rental Annual Fee for 1 rack space @ \$4,226.50
Total Annual Fee for 4 racks is \$16,906.00
- Contract Development @ \$500 **

** One-time Contract Administration charge, payable upon receipt of first invoice

PAYMENT SCHEDULE

Licensee shall be invoiced as specified by check mark:

- Monthly Invoicing:** On the last day of each month of services rendered.
- Semi-Annual Invoicing:** In advance, on December 31 each year (for period January 1 through June 30 of the successive year) and on June 30 of each year (for period July 1 through December 31). Both invoices equal to one half of the annual fee listed below. The first payment due for the period 6/1/2020 – 12/31/2020 shall be invoiced by COUNTY after mutual execution of this License and payable within 60 days of the invoice date.

Payments are due upon receipt of invoice and payable within sixty (60) days of invoice date.

CHARGES FOR SERVICES

Equipment Type	No of Units	Rack Space & Antenna Charges	Annual Charge
One-Time Contract Administration Charge**			
Rack Space: <u>4</u> Racks			
Annual Payment 6/1/2020 – 5/31/2021	4	\$16,906.00	\$16,906.00
Annual Payment 6/1/2021 – 5/31/2022	4	\$16,906.00	\$16,906.00
Annual Payment 6/1/2022 – 5/31/2023	4	\$16,906.00	\$16,906.00
Annual Payment 6/1/2023 – 5/31/2024	4	\$16,906.00	\$16,906.00
Annual Payment 6/1/2024 – 5/31/2025	4	\$16,906.00	\$16,906.00
Total Cost for 4 Racks for period 6/1/2020 - 5/31/2025	4		\$84,530.00