

**WEST VALLEY CONNECTOR SAFE ROUTES TO TRANSIT PROJECT
COOPERATIVE AGREEMENT**

BETWEEN

OMNITRANS

1700 W FIFTH ST

SAN BERNARDINO, CALIFORNIA 92411

AND

THE CITY OF POMONA

505 S. GAREY AVENUE

POMONA, CALIFORNIA 91766

I. PARTIES AND TERM

- A. THIS COOPERATIVE AGREEMENT (“AGREEMENT”) is made and entered into as of _____, 2017 by and between OMNITRANS and the City of POMONA (“CITY”). OMNITRANS and CITY are sometimes referred to herein individually as a “Party” and collectively as the “Parties”.
- B. THIS AGREEMENT shall terminate upon completion of OMNITRANS’ management of the environmental, design, and construction phases of the PROJECT, or December 31, 2020, whichever is earlier in time, except that the indemnification provisions and the continuing control provisions shall remain in effect until said provisions are expressly terminated or modified in writing mutually signed by the Parties. Should any claims by third parties arising out of this AGREEMENT, during or after the Term of this AGREEMENT, be asserted against one of the Parties, the Parties agree to extend (retroactively, if claims occur after the Term) the fixed termination date of this Agreement, until such time as the claims are settled, dismissed or paid.

II. **RECITALS**

- A. WHEREAS, OMNITRANS proposes to construct active transportation improvements such as sidewalk and curb ramp repair or replacement, striping of crosswalks, and installation of bike racks, at or within ½ mile of proposed stations along the future West Valley Connector rapid bus line in the cities of Pomona, Montclair, Ontario, Rancho Cucamonga, and Fontana; and
- B. WHEREAS, proposed improvements are depicted in Attachment A and are defined as the “PROJECT” or “PROJECT improvements,” which shall be located on CITY-owned “PROJECT Property” (which consists of City-owned infrastructure and City-owned assets improved with FTA funds, including sidewalk, curb ramps, and crosswalks); and
- C. WHEREAS, the Parties wish to enter into this AGREEMENT to delineate roles, responsibilities, and funding commitments relative to the PROJECT; and
- D. WHEREAS, OMNITRANS will complete the implementation of the PROJECT, including project management, engineering design, construction, procurement and management of contractors, and coordination with other cities and agencies pursuant to similar cooperative agreements, or as otherwise determined by OMNITRANS; and
- E. WHEREAS, OMNITRANS is the California Environmental Quality Act (CEQA) Lead Agency for the PROJECT and Caltrans is the National Environmental Policy Act (NEPA) Lead Agency for the PROJECT, and a Categorical Exemption (CE) / Categorical Exclusion (CE) has been certified for the PROJECT under both CEQA and NEPA; and
- F. WHEREAS, the PROJECT is fully funded by federal Active Transportation Program funds granted by the Federal Transit Administration (“FTA”); and
- G. WHEREAS, CITY is the PROJECT owner and maintainer of the existing PROJECT Property and will be the owner of the proposed PROJECT improvements, and this AGREEMENT does not transfer ownership to OMNITRANS nor does it transfer any legal responsibilities associated with ownership, operation, and maintenance of the PROJECT Property or any future PROJECT improvements.
- H. WHEREAS, OMNITRANS, as the designated recipient of FTA funds that will be used to fund the PROJECT, is required to have, maintain, and exercise satisfactory continuing control over the PROJECT improvements and PROJECT Property for their useful life to the extent necessary carry out the authorized purpose of the PROJECT for which federal funds were used pursuant to its agreement with the FTA as further described in Section V.

NOW, THEREFORE, the Parties agree to the following:

III. OMNITRANS RESPONSIBILITIES:

OMNITRANS agrees:

- A. To be the lead agency and to diligently undertake all project management, planning, environmental, design, and construction work on the PROJECT, including the selection and retention of consultants and contractors. Performance of services under these consultant and/or contractor contracts shall be subject to the technical direction of OMNITRANS' Development Planning Manager or a designee, with input and consultation from CITY.
- B. To use the \$3,500,000 federal Active Transportation Program grant to complete the PROJECT. The total PROJECT cost, exclusive of City-provided services specified in Part IV of this AGREEMENT, is to be borne solely by OMNITRANS using the available grant funds.
- C. To execute appropriate agreements with other cities and agencies, as determined by OMNITRANS, to facilitate and coordinate the completion of the PROJECT.
- D. To designate a Project Manager to represent OMNITRANS, through whom all communications between the Parties shall be channeled.
- E. To provide CITY a proposed PROJECT schedule to complete the PROJECT.
- F. To include CITY in relevant meetings and communications on PROJECT progress and provide CITY copies of meeting minutes and action items.
- G. To perform design and construction in accordance with City, state, and federal standards and practices.
- H. To include CITY in design decisions that fall under the purview of CITY's zoning and development standards (including the General Plan and any applicable Specific Plans), relevant design guidelines, or aesthetic considerations.
- I. To provide all PROJECT work performed by OMNITRANS and its consultants and contractors for review and comment by CITY. OMNITRANS shall review all comments timely received from the CITY related to PROJECT and the Parties shall mutually agree as to which comments shall be incorporated into the PROJECT. Notwithstanding the foregoing, OMNITRANS shall not be required to incorporate comments which are unrelated to safety *and* would cause the PROJECT to exceed the budgeted costs.
- J. To apply for encroachment permits authorizing entry of OMNITRANS and its consultants and contractors onto CITY right-of-way to perform investigative activities, including surveying and geotechnical borings, and construction activities required by the PROJECT.

- K. To obtain all necessary PROJECT permits from the City, and pay any fees for permits (including grading permits) processed through the CITY's Building & Safety Division.
- L. To obtain, all necessary PROJECT permits, agreements and/or approvals from appropriate agencies. All mitigation, monitoring, and/or remedial action required by said permits and/or agreements shall constitute part of the PROJECT cost.
- M. To be responsible for the restoration of any temporary staging areas to their previous condition or to a condition otherwise satisfactory to CITY; however, CITY shall not require OMNITRANS to improve such property or leave it in a better condition than when received. A grading permit from CITY shall be obtained by the contractor responsible for the installation and maintenance of appropriate dust control measures to the satisfaction of CITY. In addition, OMNITRANS and/or its contractor shall be responsible for the installation and maintenance of standard Best Management Practice measure related to CITY's MS4 permit under the National Pollutant Discharge Elimination System ("NPDES") in controlling storm runoff from the site.
- N. To employ standard measures to control fugitive dust caused by construction activities along the entire length of the PROJECT and at any construction yards or staging areas. Proposed measures shall be reviewed and approved by CITY prior to implementation, and CITY shall have the authority to require reasonable additional measures if a fugitive dust problem arises as a result of construction activities.
- O. To be responsible for design and implementation of a Storm Water Pollution Prevention Plan ("SWPPP") as required during construction. The SWPPP shall be available with the contractor at the construction zone at all times.
- P. To consult with CITY prior to its removal and replacement of any landscaping and/or irrigation located within CITY right-of-way or within any landscape maintenance easement. The PROJECT plans and specifications shall contain the information required by CITY's regulations and guidelines for landscape plans and specifications including provisions regarding the procedure for removal, replacement, and relocation of landscaping.
- Q. To install all PROJECT-related signage and traffic control signage as indicated on the PROJECT plans at OMNITRANS' sole cost.
- R. To: i) comply with any and all environmental laws, and ii) ensure that no PROJECT-related activity shall cause OMNITRANS' or CITY to be in violation of any environmental laws. If OMNITRANS fails or refuses to comply with any environmental laws, or causes CITY to be in violation of any environmental laws, then upon CITY's request, OMNITRANS shall undertake corrective or remedial action to address any release or threatened release or discharge of hazardous substance, pollutant or contaminant, wastewater, or storm water.
- S. To own and maintain in good working order, at OMNITRANS' sole cost, the bike racks to be installed at the bus stops / future rapid bus station locations as designated on the

PROJECT plans, and to promptly address any issues brought to OMNITRANS' attention by CITY that may arise from the bike racks.

- T. To be solely responsible for all costs associated with any utility relocation required by the PROJECT.
- U. If relocation of CITY-owned utilities is required for construction of the PROJECT, OMNITRANS agrees to design and construct any such relocations: i) at no cost to CITY; ii) in a manner acceptable to the CITY with regard to CITY-approved designs; and iii) in a manner acceptable to the CITY with regard to CITY-approved relocation schedules to minimize disruption of utility services to the City's customers.

IV. **CITY RESPONSIBILITIES:**

CITY agrees:

- A. To perform certain tasks and obligations pursuant to this AGREEMENT at no cost to OMNITRANS as consideration for OMNITRANS' performance of obligations pursuant to this AGREEMENT, and as the City's contribution to the PROJECT.
- B. To designate a responsible staff member who will be CITY's representative in attending meetings, receiving day-to-day communications, and reviewing project documents.
- B. To timely distribute PROJECT submittals for review and comment to CITY departments that are responsible for streets, sewers, water, drainage, traffic, land development, and planning.
- C. To provide timely review and comments, at no cost to the PROJECT, on all PROJECT work performed by OMNITRANS and its consultants and contractors, such as plans, specifications, estimates, reports, studies, or other PROJECT related submittals requiring CITY review and comment. OMNITRANS shall review all comments timely received from the CITY related to the PROJECT and the Parties shall mutually agree as to which comments shall be incorporated into the PROJECT. Notwithstanding the foregoing, OMNITRANS shall not be required to incorporate comments which are unrelated to safety *and* would cause the PROJECT to exceed the budgeted costs.
- D. To provide, at no cost to the PROJECT, encroachment permits authorizing entry of OMNITRANS and its consultants and contractors onto CITY right of way to perform investigative activities, including surveying and geotechnical borings, and construction activities required by the PROJECT.
- E. To provide all CITY permits and waive CITY fees required to construct the PROJECT, except as noted in Section III.K above regarding non-waiver of fees for permits issued by the CITY's Building & Safety Division. OMNITRANS/contractor(s) shall obtain and pay the fees for all other non-City permits required for the construction of the PROJECT.
- F. To prepare CITY staff reports for City Council consideration, with supporting documentation provided by OMNITRANS.

- G. To exempt OMNITRANS from plan check fees for submittal reviews.
- H. CITY agrees NOT to require any elements of design or construction of the PROJECT so as to cause OMNITRANS to violate Federal Buy America requirements, 49 U.S.C. 661.
- I. To the extent CITY has express knowledge of adverse impacts, provide notice (or other informational documents) to OMNITRANS, in a timely manner and well in advance, of any and all existing and proposed projects, public or private, which may impede or adversely impact the design or construction of the PROJECT. CITY hereby further agrees to work with OMNITRANS to resolve any scheduling and construction conflicts that may be caused by such projects.
- J. To the extent CITY has express knowledge of circumstances posing PROJECT delays or disruptions, notify OMNITRANS in writing at least 7 calendar days in advance of any utility cuts, street closures, or other CITY operations that may temporarily affect the availability and/or usage of the PROJECT rights-of-way as contemplated by this AGREEMENT, and coordinate to minimize disruption to the PROJECT. Except in the case of emergencies, CITY shall not undertake any activities that could reasonably be expected to delay construction work on the PROJECT.
- K. To own and maintain at the CITY's sole cost and expense all PROJECT improvements, excluding bike racks, installed as part of the PROJECT within CITY right-of-way, including sidewalk, curb ramps, and crosswalks.
- L. Timely provide, at no cost to the PROJECT, CITY inspection services as required for approval of work.
- M. Make available, at no cost to the PROJECT, appropriate staff for the preparation of punch lists and final sign-off of work performed.
- N. To timely review and provide OMNITRANS with responsive comments and revisions on the design of all relocations of CITY-owned utilities required by the PROJECT, and to issue permits for the relocation at no cost to OMNITRANS except as otherwise required by this AGREEMENT.
- O. To the extent the PROJECT requires relocation of utilities owned by other government agencies or public or private utility companies, exercise CITY's authority and rights, to the extent provided for in Streets and Highways Code Section 680, or as provided for in any property rights, permits, or licenses with the affected utility owner, by requiring the utility owner to design and relocate the utility as necessary for construction of the PROJECT. In the event that the applicable utility owner is not required to bear the cost of the relocation, then pursuant to Section III.S and III.T above, OMNITRANS shall be solely responsible for all costs associated with the relocation required by the PROJECT.

V. **CONTINUING CONTROL:**

One purpose of this AGREEMENT is to establish, as designated recipient of FTA funds, OMNITRANS' satisfactory continuing control over PROJECT Property to the extent

necessary for OMNITRANS to meet FTA grant funding requirements, and to establish the respective rights and obligations of the Parties in connection with this AGREEMENT.

Use and Control of PROJECT Property:

- A. In General - Due to the FTA funds used on the PROJECT, OMNITRANS shall maintain satisfactory continuing control over the PROJECT Property for its useful life to carry out the authorized purpose of the PROJECT for which federal funds were used in accordance with FTA requirements and grant conditions.
- B. Period of Continuing Control – OMNITRANS’ right to exercise continuing control over the PROJECT Property shall continue for its useful life and as long as the PROJECT Property is needed in the judgment of OMNITRANS for the PROJECT purposes for which the FTA funds were expended and shall include any time period necessary to dispose of the PROJECT Property under FTA requirements and procedures.
- C. Use - CITY agrees to use the PROJECT Property for appropriate PROJECT purposes to support public transportation activities. City agrees to notify OMNITRANS prior to withdrawal of any PROJECT Property from PROJECT use or when any PROJECT Property is used in a manner substantially different from the representation CITY has identified and agreed to in AGREEMENT.
- D. Maintenance - CITY agrees to maintain PROJECT Property in good operating order, in compliance with any applicable Federal laws and regulations, and in accordance with applicable Federal directives, except to the extent that FTA determines otherwise in writing.
- E. Records - CITY agrees to keep satisfactory records pertaining to the use of the PROJECT Property and submit to OMNITRANS upon request such information as may be required by the FTA to ensure continuing control and assure compliance with FTA’s Master AGREEMENT.
- F. Incidental Use - Any incidental use of PROJECT Property will not exceed that permitted under applicable Federal laws or regulations in accordance with applicable Federal directives. Any incidental use for non-transit purposes must be compatible with the PROJECT and be approved by FTA in coordination with OMNITRANS.
- G. Transfer or Lease of Property - City shall not transfer any obligation pertaining to the PROJECT Property that would affect OMNITRANS’, on behalf of the FTA, continuing interest in the PROJECT Property. Any transfer or lease must be approved by OMNITRANS.
- H. Title to PROJECT Property - CITY shall retain title to PROJECT Property.

VI. MUTUAL RESPONSIBILITIES:

- A. The scope of the PROJECT is depicted in Attachment A.

- B. Neither CITY, nor any officer, director, employee, or agent thereof is responsible for any injury, damage or liability occurring or arising by reason of anything done or omitted to be done by OMNITRANS under or in connection with any work, authority or jurisdiction delegated to OMNITRANS under this AGREEMENT. It is understood and agreed that, pursuant to Government Code Section 895.4, OMNITRANS shall fully defend, indemnify and save harmless CITY its officers, directors, employees or agents from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by OMNITRANS under or in connection with any work, authority or jurisdiction delegated to OMNITRANS under this AGREEMENT.
- C. Neither OMNITRANS nor any officer, director, employee or agent thereof is responsible for any injury, damage or liability occurring or arising by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this AGREEMENT. It is understood and agreed that, pursuant to Government Code Section 895.4, CITY shall fully defend, indemnify and save harmless OMNITRANS its officers, directors, employees or agents from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this AGREEMENT.
- D. CITY is an authorized self-insured public entity for purposes of Professional Liability, General Liability, Automobile Liability and Workers' Compensation and warrants that through its program of self-insurance, it has adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this AGREEMENT.
- E. OMNITRANS is a public entity with Professional Liability, General Liability and Automobile Liability policies of \$10,000,000 each and Workers' Compensation insurance coverage in the statutory limits, to protect against liabilities arising out of the performance of the terms, conditions or obligations of this AGREEMENT.
- F. Except on subjects preempted by Federal law, this AGREEMENT shall be governed and construed in accordance with the laws of the State of California. Each Party agrees to follow all local, state, county and federal laws and ordinances with respect to performance under this AGREEMENT.
- G. The Parties agree that each Party and any authorized representative, designated in writing by a Party, and upon reasonable notice, shall have the right during normal business hours to examine all Parties' financial books and records with respect to this AGREEMENT. The Parties agree to retain their books and records for a period of five (5) years from the later of: (a) the date on which this AGREEMENT terminates; or (b) the date on which such book or record was created.

- H. If any clause or provision of this AGREEMENT is illegal, invalid or unenforceable under applicable present or future laws, then it is the intention of the Parties that the remainder of this AGREEMENT shall not be affected but shall remain in full force and effect.
- I. This AGREEMENT can be amended with a written amendment when agreed upon and duly authorized to be executed by both Parties.
- J. In the event of litigation arising from this AGREEMENT, each Party to this AGREEMENT shall bear its own costs, including attorney(s) fees.
- K. This AGREEMENT may be signed in counterparts, each of which shall constitute an original.
- L. Any notice required or authorized to be given hereunder or any other communications between the Parties provided for under the terms of this AGREEMENT shall be in writing, unless otherwise provided for herein, and shall be served personally or by reputable courier or by facsimile addressed to the relevant party at the address/fax number stated below.

VII. Dispute Resolution

- A. In the event of a dispute, claim, or controversy arising from or in relation to this AGREEMENT, the Parties agree to undertake good faith attempts to resolve said dispute, claim, or controversy within seven (7) calendar days after the receipt of the written notice from the Party alleging that a minor dispute, claim, or controversy exists.
- B. If any Party, in accordance with this AGREEMENT, requests that an unresolved dispute, claim, or controversy be submitted to mediation, the Parties agree first to undertake good faith efforts to settle the dispute through mediation administered by Judicial Arbitration and Mediation Services, Inc. (JAMS) pursuant to its Comprehensive Mediation Rules and Procedures. If a Party rejects the resulting mediation determination, within a period of fifteen (15) calendar days after such decision is deemed received, then, upon written notice by any Party or Parties to the other Parties, all disputes, claims, questions, or differences shall be settled through non-binding arbitration administered by JAMS in accordance with its Comprehensive Arbitration Rules and Procedures as provided in Section VII.C. below.
- C. In the event of a dispute, claim, or controversy arising from or in relation to this AGREEMENT that cannot be resolved pursuant to Section VII.B. above, or the breach, termination, enforcement, interpretation, or validity thereof (including the determination of the scope or applicability of this AGREEMENT (collectively referred to as the "Controversy"), the Parties agree to submit the Controversy to non-binding arbitration conducted by one (1) arbitrator selected in the manner as provided herein. Such arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. The arbitrator must be mutually acceptable to the Parties and shall be approved as such in writing prior to commencement of any arbitration proceeding. Any award granted pursuant to this section shall be non-binding, advisory, and shall not be entered as a judgment in any court (except on mutual consent of the Parties). The

award shall not be cited as evidence or precedent, with any preclusive effect, in any court, arbitration, or other proceeding. The Parties shall not refer to any arbitration proceeding entered into pursuant to this section or any award, pleadings, briefs, testimony, or process relating to the same in any subsequent proceeding.

- D. Compliance with the provisions of this AGREEMENT shall be a condition precedent to any legal action, provided that nothing herein shall limit the Parties' right to terminate this AGREEMENT for failure to comply with the insurance provisions herein, default, a lack of PROJECT funding, or an unreasonable and prolonged disruption in service or construction delay caused by a Party or Parties.
- E. The Parties agree to share equally the fees of the mediator, arbitrator, and all costs associated with mediation and arbitration; provided that each Party shall be responsible for its own legal costs, including attorney' fees and the costs associated with experts.

VIII. Default

- A. Failure or delay by a Party to perform any material term or provision of this AGREEMENT shall constitute a default under this AGREEMENT, provided that if the Party who is otherwise claimed to be in default by the other Party commences to cure, correct, or remedy the alleged default within thirty (30) calendar days after receipt of written notice specifying such default and thereafter diligently undertakes efforts to complete such cure, correction, or remedy, such Party shall not be deemed to be in default hereunder. The Party claiming that a default has occurred shall give written notice of default to the defaulting Party, specifying the deficiencies causing the alleged default. Delay in giving such written notice shall not constitute a waiver of any default nor shall it change the time of default; provided, however, the non-defaulting Party shall have no right to exercise any remedy for a default hereunder without first delivering the written default notice as specified herein.
- B. In the event that the defaulting Party fails to commence to cure, correct, or remedy a default within thirty (30) calendar days following receipt of written notice, or thereafter fails to diligently complete such cure, correction, or remedy, a breach of this AGREEMENT shall be deemed to have occurred. In the event of a breach the non-defaulting Party may terminate this AGREEMENT through written notice of termination. Disputes regarding the facts that may have given rise to termination under this section shall be subject to the dispute resolution provisions provided above, but the right to terminate for such reasons shall not be subject to review.
- C. Both OMNITRANS and CITY shall retain their rights to terminate this AGREEMENT and the PROJECT, without liability, at any time due to the lack of adequate funding or the lack of or denial of any required approval from any local, state, or federal agency. Disputes regarding the facts that may have given rise to termination under this section or the right of OMNITRANS to terminate pursuant to this section shall not be subject to the dispute resolution provisions as provided in this AGREEMENT. In the event that work has commenced on the PROJECT which results in any portion of a right-of-way upon which construction activities have commenced and have not been completed as of the

date of determination that funding is insufficient or has otherwise been denied for the PROJECT, OMNITRANS shall use other available sources of funds to repair such rights-of-way to a condition reasonably satisfactory to the CITY that allows for vehicular and pedestrian use of any such rights-of-way without any costs to CITY. This provision for the completion or restoration of work on rights-of-way shall survive any termination of this AGREEMENT by either OMNITRANS or CITY.

- D. In the event that any Party to this AGREEMENT, despite its best efforts, cannot for reasons beyond the control of the Party timely satisfy a contingency or condition required by this AGREEMENT, that Party shall provide immediate written notification to the other Party within seven (7) calendar days after the occurrence of the event specifying the reasons for which the requirements cannot be met. As soon as practically possible thereafter, the Parties shall meet and confer in good faith to consider the changed conditions and the potentially adverse impacts upon this AGREEMENT. The Parties shall work in good faith to resolve the problem and if this meet-and-confer process results in a recommended restructured form of this AGREEMENT, representative of the Parties will recommend such changes as necessary to the individual, Party, or governing body authorized to amend this AGREEMENT. Any approval of such restructured AGREEMENT shall be subject to the amendment provisions provided below.
- E. In addition to specific provisions of this AGREEMENT, performance by either Party hereunder shall not be deemed to be in default, or considered to be a default, where delays or defaults are due to the force majeure events of war, terrorist, or related terrorist acts, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes or lack of transportation, weather-caused delays, inability to secure necessary labor, materials or tools, delays of any contractors, subcontractor, or supplier, which are not attributable to the fault of the Party claiming an extension of time to prepare or acts of failure to act of any public or governmental agency or entity, other than the Parties. Delays encountered by either Party in obtaining necessary funding for the PROJECT, governmental actions, reviews, approvals, and permits shall not be deemed to be an enforced delay or a force majeure event pursuant to this section. An extension of time for any such force majeure event shall be for the period of the enforced delay and shall commence to run from the date occurrence of the delay; provided, however, that the Party that claims the existence of the delay has first provided the other Party with written notice of the occurrence of the delay within seven (7) calendar days after the commencement of such occurrence or delay. A Party's failure to timely submit such notice of the occurrence of the delay pursuant to this section shall be precluded from asserting the occurrence of an enforced delay or force majeure event.
- F. Except as otherwise expressly provided herein, each Party who files any action or brings any action or proceeding against the other arising from this AGREEMENT, seeks resolution of disputes pursuant to this AGREEMENT or is made a party to any action or proceeding brought by any other person or governmental entity, shall bear its own costs and fees.

- G. Each Party shall keep fully informed of and in compliance with all local, State, and federal laws, rules, and regulations in any manner affecting the performance of this AGREEMENT or any work related to the PROJECT, including all Cal/OSHA requirements, and shall give all notices required by law. Each Party shall be liable for its violations of such laws and regulations in connection with this AGREEMENT or any work related to the PROJECT. If either Party performs any of its obligations hereunder knowing that its actions are contrary to such law, rules, and regulations and without giving written notice to the other, the violating Party shall be solely responsible for all costs arising therefrom. The violating Party shall defend, indemnify, and hold the other, its officials, directors, officers, employees, volunteers, and agents free and harmless pursuant to the indemnification provisions of this AGREEMENT, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules, or regulations.
- H. Approvals required of OMNITRANS or CITY or any officers, agents, employees, or volunteers of any Party shall not be unreasonably withheld or approval or disapproval shall be given within a reasonable time.

IX. Miscellaneous Terms

- A. Formal notices, demands, and communications between OMNITRANS and CITY shall be deemed sufficiently given if: (i) dispatched by registered or certified mail via the United States Postal Service, postage prepaid, return receipt requested, as designated in this section; (ii) by messenger service for immediate personal delivery; or (iii) by electronic transmittal, including fax transmission with telephonic verification receipt. Such written notices, demands, and communications may be sent in the same manner to such other addresses as the Parties may from time to time designate by written notice to the other Parties.

- B. All notices, demands, and communication shall be sent to:

P. Scott Graham
CEO/General Manager
Omnitrans
1700 W. 5th Street
San Bernardino, CA 92411

Rene Guerrero
City Engineer
City of Pomona
505 S. Garey Ave
Pomona, CA 91766

Notices that are dispatched by registered or certified mail through the United States Postal Service shall be deemed to be received, regardless of whether or when any return receipt is received by the sender or the date set forth on such return receipt, five (5) calendar days after deposit with delivery services. Notices dispatched by express delivery services shall be deemed received upon execution of the delivery receipt by the Party receiving such notices. Notices dispatched through electronic transmittals shall be deemed received upon telephonic verification of such receipt.

- C. This AGREEMENT may be amended at any time by mutual consent of the Parties by an instrument in writing executed and signed by both Parties.

- D. Each of the Parties shall cooperate with and provided reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this AGREEMENT and the satisfaction of the conditions of this AGREEMENT.
- E. This AGREEMENT may be signed in counterparts each of which shall constitute an original.
- F. This AGREEMENT and the performance of the Parties' obligations hereunder are for the sole and exclusive benefit of the Parties. No person or entity who or which is not a signatory to this AGREEMENT shall be deemed to be benefited or intended to be benefited by any provision hereof and no such person or entity shall acquire any rights or causes of action against the Parties hereunder as a result of any Party's performance or non-performance of their respective obligations under this AGREEMENT.
- G. The person or persons executing this AGREEMENT on behalf of OMNITRANS and CITY warrant and represent that he/she has the authority to execute this AGREEMENT on behalf of the Party and that they have the authority to bind the Party to the performance of its obligations hereunder.
- H. This AGREEMENT constitutes the entire and integrated AGREEMENT of OMNITRANS and CITY with respect to the subject matter hereof and supersedes any and all prior and contemporaneous oral or written negotiations, representations, or agreements.

OMNITRANS

By: _____
P. Scott Graham, CEO/General Manager

Date: _____

APPROVED AS TO FORM AND
PROCEDURE:

By: _____

Omnitrans Legal Counsel

CITY OF POMONA

By: _____
Linda Lowry, City Manager

Date: _____

APPROVED AS TO FORM AND
PROCEDURE:

By: _____

Arnold M. Alvarez-Glasman
City Attorney

ATTEST

Eva M. Buice, City Clerk

ATTACHMENT A – PROJECT PLANS

DRAFT

USER=> P009957A
TIME=> 4:40:40 PM
DATE=>3/30/2017
PLOT DRIVER=> Omnitrans_WVC-PDF-BW.plt
PEN TABLE=> Omnitrans_WVC-Pen-Table.tbl



Know what's below.
Call before you dig.

REV	DATE	BY	DESCRIPTION

CITY OF POMONA


ACCEPTED BY: _____
CITY ENGINEER

DATE
11/28/2016

DESIGNED BY LT/JT/JS
DRAWN BY LS
CHECKED BY MR/LT
IN CHARGE G. LUMABAS
DATE 11/28/2016



PLANS PREPARED BY:



3200 EAST GUASTI ROAD, SUITE 200
ONTARIO, CA 91761
PHONE: (909) 218-3600 FAX: (909) 218-3605

SIGNATURE _____ RCE NO. _____ DATE _____

PREPARED FOR:



Connecting Our Community.

WEST VALLEY CONNECTOR CORRIDOR
SAFE ROUTES TO TRANSIT PROJECT

PROPOSED ATP IMPROVEMENTS LOCATION MAP

CONTRACT NO. MKP15-37
SCALE 1" = 300'
APPLICABLE FOR FULL SITE ONLY
DRAWING NO. L-001
REV
SHEET NO. 5 OF 22

IMPROVEMENTS AT EACH LOCATION

No.	LOCATION	CORNER				CROSSWALK				BIKE RACK	SIDEWALK	NOTES
		NW	NE	SW	SE	N	W	E	S			
001	NOT USED											
002	COMMERCIAL ST @ REBECCA ST		(2)									
003	COMMERCIAL ST @ PARCEL ST	(1)	(1)								(4) (5)	DRIVEWAY TIE-IN
004	COMMERCIAL ST @ GORDON ST	(2)	(2)									
005	COMMERCIAL ST @ MAIN ST	(2)	(2)	(2)	(2) (2)							
006	150' SOUTH OF COMMERCIAL ST @ MAIN ST		(2)		(2)							
007	PASADENA ST @ GAREY AVE		(2)		(2)							
008	PASADENA ST @ GIBBS ST	(2)	(2)	(2)	(2)		(3)	(3)				
009	PASADENA ST @ PALOMARES ST	(2)	(2)	(2)	(2)							
010	HOLT AVE @ GAREY AVE		(2)	(2)						(6) SEE MAP		
011	HOLT AVE @ GIBBS ST	(2)	(2)	(2)	(2)		(3)		(3)			
012	HOLT AVE @ ELEANOR ST			(1)	(1)				(3)			
013	CENTER ST @ GAREY AVE	(2)	(2)	(2)	(2)		(3)	(3)				
014	CENTER ST @ PALOMARES ST	(2)	(1)	(1)	(1)							
015	CENTER ST @ ELEANOR ST	(1)	(1)	(1)	(1)			(3)	(3)			
016	MONTEREY AVE @ GAREY AVE					(3)	(3)	(3)	(3)			
017	ALLEY NORTH OF KINGSLEY AVE @ TOWNE AVE		(2)		(2)							
018	SAN FRANCISCO AVE @ TOWNE AVE	(2)	(2)	(2)	(2)		(3)	(3)				
019	ALLEY NORTH OF PASADENA ST @ TOWNE AVE		(1)		(1)							
020	PASADENA ST @ TOWNE AVE	(2)	(2)	(2)	(2)		(3)	(3)				
021	PASADENA ST @ CASWELL AVE	(1)	(1)	(1)	(1)			(3)	(3)			
022	PASADENA ST @ MOUNTAIN VIEW AVE		(2)									
023	HOLT AVE @ TOWNE AVE	(1)	(1)	(1)	(1)	(3)	(3)	(3)	(3)	(6) SEE MAP		
024	HOLT AVE @ PALM PL			(2)	(2)				(3)			
025	HOLT AVE @ PALOMAR DR			(2)	(2)				(3)			
026	HOLT AVE @ CASWELL AVE	(1)					(3)					
027	HOLT AVE @ SAN ANTONIO AVE	(2)	(2)	(2)	(2)							
028	HOLT AVE @ CLAREMONT PL	(2)	(2)				(3)					
029	HOLT AVE @ MOUNTAIN VIEW AVE			(2)	(2)				(3)			
030	HOLT AVE @ MOUNTAIN VIEW AVE	(2)	(2)				(3)					
031	CENTER ST @ TOWNE AVE	(2)					(3)					
032	HAWTHORNE PL @ MOUNTAIN VIEW AVE	(1)	(1)	(1)	(1)							
033	MONTEREY AVE @ MOUNTAIN VIEW AVE	(1)		(1)								
034	REEVES PL @ MOUNTAIN VIEW AVE	(1)	(1)	(1)	(1)							

CONSTRUCTION NOTES:

- CONSTRUCT CURB RAMP PER C.P. STANDARD NO. A-28-10
- INSTALL CURB RAMP TRUNCATED DOME PER C.P. STANDARD NO. A-28-10
- CONSTRUCT CROSSWALK PER CALTRANS STANDARD NO. A24F
- CONSTRUCT 6' SIDEWALK PER C.P. STANDARD NO. A-7-02
- CONSTRUCT DRIVEWAY PER C.P. STANDARD NO. APWA 110-1
- INSTALL BIKE RACK PER DETAIL ON SHEET NO. 4



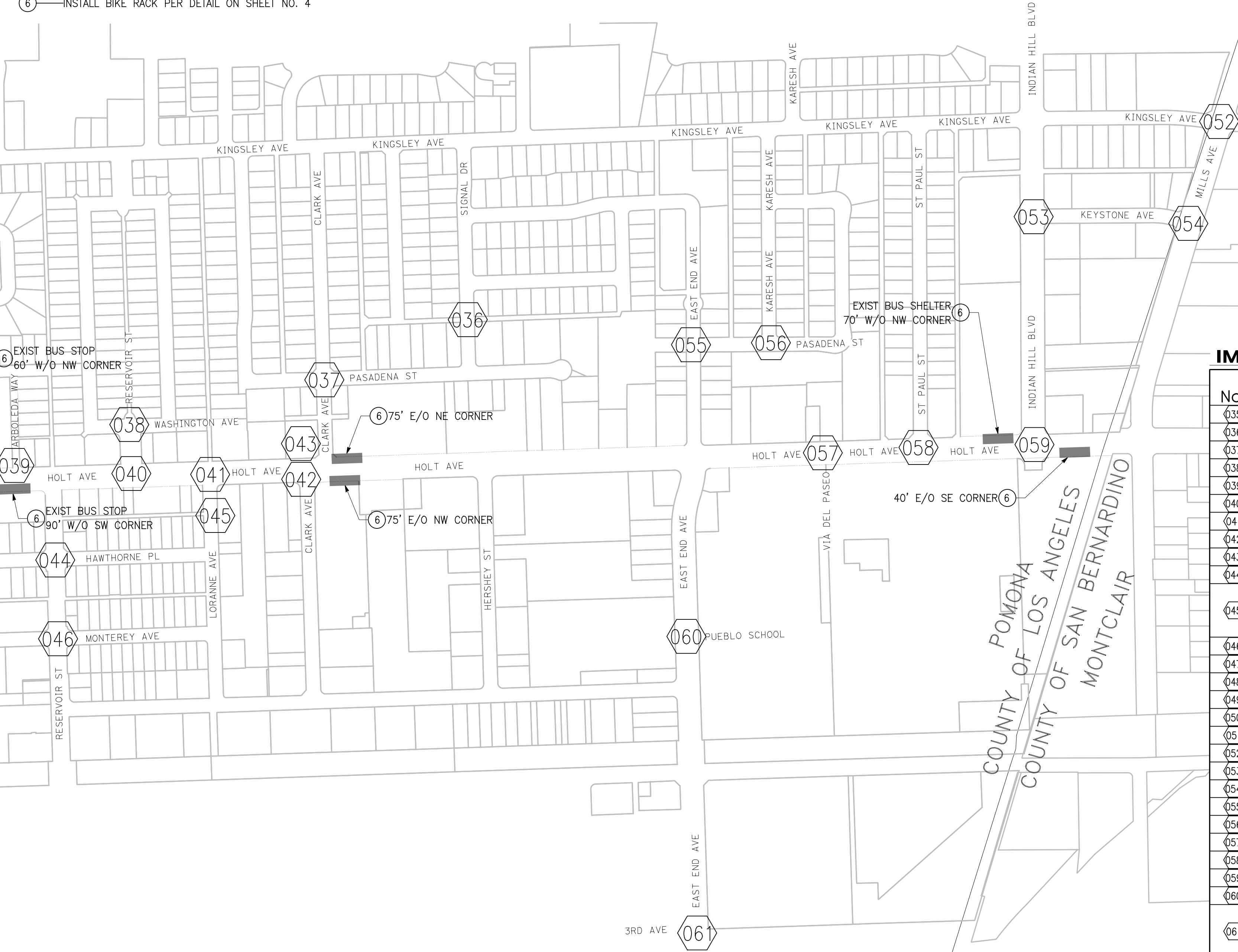
MATCH LINE - SEE SHEET 6

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MATCH LINE - SEE SHEET 5

CONSTRUCTION NOTES:

- 1-CONSTRUCT CURB RAMP PER C.P. STANDARD NO. A-28-10
- 2-INSTALL CURB RAMP TRUNCATED DOME PER C.P. STANDARD NO. A-28-10
- 3-CONSTRUCT CROSSWALK PER CALTRANS STANDARD NO. A24F
- 4-CONSTRUCT 6' SIDEWALK PER C.P. STANDARD NO. A-7-02
- 5-CONSTRUCT DRIVEWAY PER C.P. STANDARD NO. APWA 110-1
- 6-INSTALL BIKE RACK PER DETAIL ON SHEET NO. 4



IMPROVEMENTS AT EACH LOCATION

No.	LOCATION	CORNER				CROSSWALK				BIKE RACK	SIDEWALK	NOTES
		NW	NE	SW	SE	N	W	E	S			
035	NOT USED											
036	ALLEY NORTH OF PASADENA ST @ SIGNAL DR	1	1	1	1							
037	PASADENA ST @ CLARK AVE	1	1	1	1							
038	WASHINGTON AVE @ RESERVOIR ST			2	1							
039	HOLT AVE @ ARBOLEDA WAY	2	2							6	SEE MAP	
040	HOLT AVE @ RESERVOIR ST	2	2					3				
041	HOLT AVE @ LORANNE AVE			2	2							
042	HOLT AVE @ CLARK AVE	2		2	2			3	3	6	SEE MAP	
043	HOLT AVE @ CLARK AVE	2	2		2	3		3	3			
044	HAWTHORNE PL @ RESERVOIR ST	2	1	1	1		3	3				
045	ALLEY BETWEEN HOLT AVE & HAWTHORNE PL @ LORANNE AVE	2		2								
046	MONTEREY AVE @ RESERVOIR ST	2	2	2	2							
047	NOT USED											
048	NOT USED											
049	NOT USED											
050	NOT USED											
051	NOT USED											
052	KINGSLEY AVE @ MILLS AVE	2		1		3*	3		3*			*COORDINATE STRIPING WITH MONTCLAIR
053	KEYSTONE AVE @ INDIAN HILL BLVD		2		2			3				
054	KEYSTONE AVE @ MILLS AVE	2		2				3				
055	PASADENA ST @ EAST END AVE		2		2				3			
056	PASADENA ST @ KARESH AVE	1	1					3				
057	HOLT AVE @ VIA DEL PASEO		2	2	2							
058	HOLT AVE @ ST PAUL ST	2	2					3				
059	HOLT AVE @ INDIAN HILL BLVD	2	2	2	2	3	3	3	3	6	SEE MAP	
060	PUEBLO SCHOOL @ EAST END AVE			2	2							
061	3RD AVE @ EAST END AVE											4 FROM SW CORNER TO 160' WEST. 5 FROM SW CORNER TO 160' SOUTH. DRIVEWAY TIE-IN

LEGEND

INDICATES FUTURE BUS STATION LOCATION



REV	DATE	BY	DESCRIPTION

CITY OF POMONA

ACCEPTED BY: CITY ENGINEER DATE

DESIGNED BY LT/JT/JS
DRAWN BY LS
CHECKED BY MR/LT
IN CHARGE G. LUMABAS
DATE 11/28/2016



PLANS PREPARED BY:
PARSONS
3200 EAST GUASTI ROAD, SUITE 200
ONTARIO, CA 91761
PHONE: (909) 218-3600 FAX: (909) 218-3605
SIGNATURE RCE NO. DATE

PREPARED FOR:
OmniTrans
Connecting Our Community.

WEST VALLEY CONNECTOR CORRIDOR
SAFE ROUTES TO TRANSIT PROJECT
PROPOSED ATP IMPROVEMENTS LOCATION MAP

CONTRACT NO. MKP15-37
SCALE 1" = 300'
APPLICABLE FOR FULL SITE ONLY
DRAWING NO. L-002 REV
SHEET NO. 6 OF 22

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PEN TABLE=> Omnitrans_WVC-Pen-Table.tbl



**Know what's below.
Call before you dig.**

REV	DATE	BY	DESCRIPTION


CITY OF POMONA

ACCEPTED BY: _____
CITY ENGINEER
DATE

DESIGNED BY LT/JT/JS
DRAWN BY LS
CHECKED BY MR/LT
IN CHARGE G. LUMABAS
DATE 11/28/2016



PLANS PREPARED BY:



3200 EAST GUASTI ROAD, SUITE 200
ONTARIO, CA 91761
PHONE: (909) 218-3600 FAX: (909) 218-3605

SIGNATURE _____ RCE NO. _____ DATE _____

PREPARED FOR:



Omnitrans
Connecting Our Community.

WEST VALLEY CONNECTOR CORRIDOR
SAFE ROUTES TO TRANSIT PROJECT
CITY OF POMONA
QUANTITIES

CONTRACT NO. MKP15-37	
SCALE	
APPLICABLE FOR FULL SIZE ONLY	
DRAWING NO. Q-001	REV
SHEET NO. 16 OF 22	

SHEET NUMBER	LOCATION NUMBER	LOCATION DESCRIPTION	CURB RAMP (EACH)	DETECTABLE WARNING SURFACE ONLY (EACH)	CROSSWALK (EACH)	DRIVEWAYS/SIDEWALK (SQFT)	BIKE RACK (EACH)
5	1	NOT USED	0	0	0	0	0
5	2	COMMERCIAL ST @ REBECCA ST	0	1	0	0	0
5	3	COMMERCIAL ST @ PARCEL ST	2	0	0	1,650	0
5	4	COMMERCIAL ST @ GORDON ST	0	2	1	0	0
5	5	COMMERCIAL ST @ MAIN ST	0	5	1	0	0
5	6	150' SOUTH OF COMMERCIAL ST @ MAIN ST	0	2	0	0	1
5	7	PASADENA ST @ GAREY AVE	0	2	1	0	0
5	8	PASADENA ST @ GIBBS ST	0	4	2	0	0
5	9	PASADENA ST @ PALOMARES ST	0	4	2	0	0
5	10	HOLT AVE @ GAREY AVE	0	2	0	0	2
5	11	HOLT AVE @ GIBBS ST	0	4	2	0	0
5	12	HOLT AVE @ ELEANOR ST	2	0	1	0	0
5	13	CENTER ST @ GAREY AVE	0	4	2	0	0
5	14	CENTER ST @ PALOMARES ST	3	1	2	0	0
5	15	CENTER ST @ ELEANOR ST	4	0	2	0	0
5	16	MONTEREY AVE @ GAREY AVE	0	0	0	0	0
5	17	ALLEY NORTH OF KINGSLEY AVE @ TOWNE AVE	0	2	1	0	0
5	18	SAN FRANCISCO AVE @ TOWNE AVE	0	4	0	0	0
5	19	ALLEY NORTH OF PASADENA ST @ TOWNE AVE	2	0	0	0	0
5	20	PASADENA ST @ TOWNE AVE	0	4	2	0	0
5	21	PASADENA ST @ CASWELL AVE	4	0	2	0	0
5	22	PASADENA ST @ MOUNTIAN VIEW AVE	0	1	1	0	0
5	23	HOLT AVE @ TOWNE AVE	4	0	4	0	2
5	24	HOLT AVE @ PALM PL	0	2	1	0	0
5	25	HOLT AVE @ PALOMAR DR	0	2	1	0	0
5	26	HOLT AVE @ CASWELL AVE	1	0	0	0	0
5	27	HOLT AVE @ SAN ANTONIO AVE	0	4	0	0	0
5	28	HOLT AVE @ CLAREMONT PL	0	2	1	0	0
5	29	HOLT AVE @ MOUNTIAN VIEW AVE	0	2	1	0	0
5	30	HOLT AVE @ MOUNTIAN VIEW AVE	0	2	1	0	0
5	31	CENTER ST @ TOWNE AVE	0	2	1	0	0
5	32	HAWTHORNE PL @ MOUNTIAN VIEW AVE	4	0	0	0	0
5	33	MONTEREY AVE @ TOWNE AVE	2	0	0	0	0
5	34	REEVES PL @ MOUNTIAN VIEW AVE	4	0	0	0	0
6	35	NOT USED	0	0	0	0	0
6	36	ALLEY NORTH OF PASADENA ST @ SIGNAL DR	4	0	0	0	0
6	37	PASADENA ST @ CLARK AVE	4	0	0	0	0
6	38	WASHINGTON AVE @ RESERVOIR ST	1	1	0	0	0
6	39	HOLT AVE @ ARBOLEDA WAY	0	2	1	0	2
6	40	HOLT AVE @ RESERVOIR ST	0	2	0	0	0
6	41	HOLT AVE @ LORANNE AVE	0	2	0	0	0
6	42	HOLT AVE @ CLARK AVE	0	3	2	0	2
6	43	HOLT AVE @ CLARK AVE	0	3	2	0	0
6	44	HAWTHORNE PL @ RESERVOIR ST	3	1	2	0	0
6	45	ALLEY BETWEEN HOLT AVE & HAWTHORNE PL @ LORANNE AVE	0	2	0	0	0
6	46	MONTEREY AVE @ RESERVOIR ST	0	4	0	0	0
6	47	NOT USED	0	0	0	0	0
6	48	NOT USED	0	0	0	0	0
6	49	NOT USED	0	0	0	0	0
6	50	NOT USED	0	0	0	0	0
6	51	NOT USED	0	0	0	0	0
6	52	KINGSLEY AVE @ MILLS AVE	1	1	3	0	0
6	53	KEYSTONE AVE @ INDIAN HILL BLVD	0	2	1	0	0
6	54	KEYSTONE AVE @ MILLS AVE	0	2	1	0	0
6	55	PASADENA ST @ EAST END AVE	0	2	1	0	0
6	56	PASADENA ST @ KARESH AVE	2	0	1	0	0
6	57	HOLT AVE @ VIA DEL PASEO	0	3	0	0	0
6	58	HOLT AVE @ ST PAUL ST	0	2	1	0	0
6	59	HOLT AVE @ INDIAN HILL BLVD	0	4	4	0	2
6	60	PUEBLO SCHOOL @ EAST END AVE	0	2	0	0	0
6	61	3RD AVE @ EAST END AVE	0	0	0	1,920	0
CITY OF POMONA SUBTOTAL			47	96	51	3,570	11

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100% SUBMITTAL ONLY - NOT FOR CONSTRUCTION