



ITEM NO. 6

## STAFF REPORT

DATE: OCTOBER 18, 2011  
TO: HONORABLE MAYOR AND CITY COUNCIL  
FROM: ROD FOSTER, CITY MANAGER  
PREPARED BY: AMER JAKHER, PUBLIC WORKS AND UTILITY SERVICES DIRECTOR  
SUBJECT: OMNITRANS COLLEGE FREE PASS PILOT PROGRAM

A handwritten signature in blue ink, likely belonging to Amer Jakher, the Public Works and Utility Services Director.

### RECOMMENDED ACTION

It is recommended that the City Council Enter into an Agreement with Omnitrans for one-year participation to assist with a College Free Pass pilot program for City College students attending California State University San Bernardino, Chaffey College, Crafton Hills College and San Bernardino Valley College in the amount of \$14,895.00 and approve and adopt Resolution No. R-89-11 to amend the Fiscal Year 2011/2012 budget.

### GOAL STATEMENT

The proposed action will support the City's goal to improve the quality of life for Colton residents.

### BACKGROUND

Omnitrans is partnering with California State University San Bernardino, Chaffey College, Crafton Hills College and San Bernardino Valley College to implement a College Free Pass pilot program for the 2011-2012 academic years.

With the support of the Omnitrans Board of Directors, Omnitrans is reaching out to the members of the Joint Powers Authority (JPA) that includes the cities of Chino, Chino Hills, Colton, Fontana, Grand Terrace, Highland, Loma Linda, Montclair, Ontario, Rancho Cucamonga, Redlands, Rialto, San Bernardino, Upland, Yucaipa and the County of San Bernardino, to help fund a one-year pilot program, and by requesting dedication of a portion of the agencies' AB2766 Subvention Funds revenue. AB 2766 subvention funds are disbursed annually by the South Coast Air Quality Management District and must be used for projects that reduce motor vehicle emission. Public transportation fare subsidies such as the College Free Pass pilot program, qualify as an acceptable use of funds. Prior to the end of the pilot program, Omnitrans will seek student support to continue the program by making it sustainable through student fees.

## **ISSUES/ANALYSIS**

Currently, approximately 1,986 students from the partner colleges reside in the City of Colton and would benefit from the program. According to Omnitrans, just one student switching from driving to taking the bus removes 20 pounds of carbon dioxide emissions each day from the air we breathe. Additionally, students could save \$2,400 annually compared to driving.

The success of similar College Free Pass programs demonstrates that cities and students benefit. When Riverside Transit Agency implemented the GO-Pass program at Riverside Community College, transit usage grew from two percent to ten percent of students within two years. This eliminated demand for over 1,000 parking spaces on campus, reduced auto emissions, and expanded residents' opportunity to get the critical job training that leads to economic growth.

Omnitrans has calculated that 1,986 residents who live in the City attend a number of colleges in the San Bernardino valley.

### **STUDENTS IN CITY ATTENDING COLLEGE**

399 California State University San Bernardino  
93 Chaffey College  
109 Crafton Hills College  
1,385 San Bernardino Valley College

## **FISCAL IMPACTS**

Approval of this action will require an additional appropriation from the City's AB 2766 subvention fund. This fund has a current estimated balance of \$191,886.

## **ALTERNATIVES**

1. Provide alternative direction to staff.

## **ATTACHMENTS**

Exhibit A – Agreement between City of Colton and Omnitrans  
Resolution No. R-89-11

EXHIBIT "A"

**Agreement between City of Colton and Omnitrans for one-time funding for a College Free Pass pilot program for 2011-2012 Academic Year.**

This agreement is made and entered into this 4th day of October, 2011, by and between Omnitrans, 1700 W. Fifth Street, San Bernardino, CA 92411 and the City of Colton, a Municipal Corporation (Address) referred to as the CITY.

**RECITALS:**

**WHEREAS**, CITY desires to reduce air pollution and traffic congestion in the CITY by decreasing automobile trips and promoting the use of public transportation and;

**WHEREAS**, Omnitrans provides public transportation service throughout the San Bernardino County valley including trips to California State University San Bernardino, Chaffey College, Crafton Hills College, and San Bernardino Valley College using clean burning compressed natural gas vehicles which eliminate vehicles from roads and;

**WHEREAS**, Omnitrans proposes a one-time donation for a College Free Pass pilot program for free bus rides for all students residing in CITY on the Omnitrans bus routes servicing these campuses of California State University San Bernardino, Crafton Hills College, and San Bernardino Valley College.

**WHEREAS**, CITY agrees to participate in the College Free Pass pilot program by providing \$14,895.00 for 1,986 students to partially subsidize CITY students' bus fares during the pilot program period.

**ARTICLE 1. STATEMENT OF WORK AND PAYMENT**

- A. City agrees to provide Omnitrans with a one-time amount of \$ 14,895.00 to be used to fund a portion of the College Free Pass pilot program sponsored by Omnitrans and payable upon receipt of invoice from Omnitrans.
- B. Omnitrans shall allow CITY students who provide a current valid College Identification Card to ride all of Omnitrans fixed route services at no charge commencing August 15, 2011; and ending June 30, 2012. This shall not apply to Access services.
- C. Omnitrans shall promote this program to CITY students to encourage usage.

## **ARTICLE 2. REPORTS**

At the conclusion of the program, Omnitrans shall provide CITY with a report summarizing usage and success of the program for use by CITY in reporting use of AB 2766 funds.

## **ARTICLE 3. INDEPENDENT CONTRACTOR**

CITY is an independent contractor and not a beneficiary or employee of Omnitrans within the meaning of any Workers' Compensation law, or any law which would entitle benefits arising out of any state or federal unemployment or old age fund or similar law, or any right to privilege extended by Omnitrans to its employees. CITY has no power to bind Omnitrans, by contract of otherwise except as herein provided by the sale of public transportation.

Omnitrans is an independent contractor and not a beneficiary or employee of CITY within the meaning of any Workers' Compensation law, or any law which would entitle benefits arising out of any state or federal unemployment or old age fund or similar law, or any right to privilege extended by CITY to its employees. Omnitrans has no power to bind CITY, by contract of otherwise except as herein provided by the sale of public transportation

## **ARTICLE 4. INDEMNITY**

Omnitrans shall defend, indemnify and hold CITY, its officers, agents, and employees harmless from and against any and all liabilities, loss, expense (including reasonable attorneys' fees), or claims for injury or damage arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damage are caused by or result from the negligent or intentional acts of omissions of Omnitrans, its officers, agents, or employees.

City shall defend, indemnify and hold Omnitrans, its officers, agents, and employees harmless from and against any and all liabilities, loss, expense (including reasonable attorneys' fees), or claims for injury or damage arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damage are caused by or result from the negligent or intentional acts of omissions of City, its officers, agents, or employees.

## **ARTICLE 5. INSPECTION OF RECORDS**

Omnitrans shall permit the authorized representative of CITY, during reasonable hours, to examine, inspect and audit all records and accounts pertaining to the College Free Pass pilot program and this Agreement. Omnitrans shall make such items readily accessible to CITY during Omnitrans performance hereunder and for a period of four (4) years from the end of the program by CITY hereunder.

**ARTICLE 6. DEFAULT**

In the event that Omnitrans does not receive the necessary funding from all participating jurisdictions before service begins, the program shall be cancelled and any funds received from CITY shall be returned in full.

**ARTICLE 7. MODIFICATION**

No modification of this agreement shall be effective unless made in writing and signed by both parties.

**ARTICLE 8. TERM**

This Agreement shall be effective upon execution and shall continue in effect until June 30, 2012

**ARTICLE 9. NOTIFICATION**

All notices hereunder and communications with respect to this Agreement shall be effective upon the mailing thereof by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows.

To City of Colton:  
Attn: Amer Jakher, P.E.  
Public Works and Utilities Director  
160 S. 10<sup>th</sup> Street  
Colton, CA 92324  
Phone: (909) 370-5065

To Omnitrans:  
Attention: Wendy Williams  
Marketing Department  
1700 W. Fifth Street  
San Bernardino, CA 92411  
(909) 379-7151

**ARTICLE 10. COMPLETE AGREEMENT; SEVERABILITY; WAIVER**

This Agreement and documents incorporated herein constitute the complete and exclusive statement of the terms of the Agreement between Omnitrans and CITY and it supersedes all prior representations, understandings, and communications.

If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

The failure of either party to insist in any one or more instances upon the performance of any term or terms of this Agreement shall not be construed as a waiver of relinquishment of party's right to such performance or to future performance of such a term or terms.

**ARTICLE 11. GOVERNING LAW AND VENUE**

The law of the State of California, without regard to any conflicts of law provisions, shall govern any action or claim arising out of this Agreement. The parties agree that the venue for any action or claim arising out of or related to this Agreement shall be San Bernardino County. If any action or claim concerning this Agreement is brought by a third party, the parties agree to use their best efforts to obtain a change of venue to San Bernardino County.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed on the day and year above written.

CITY OF COLTON,  
A California Municipal Corporation

OMNITRANS

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Attest:

Attest:

\_\_\_\_\_  
Eileen C. Gomez,  
City Clerk

\_\_\_\_\_  
Jennifer Shankland,  
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: \_\_\_\_\_  
City Attorney

By: \_\_\_\_\_  
City Attorney

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**RESOLUTION NO. R-89-11**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLTON TO AMEND THE FISCAL YEAR 2011/2012 BUDGET TO APPROPRIATE \$14,895 TO THE OMNITRANS COLLEGE PASS PROGRAM**

**WHEREAS**, in 1990, California Assembly Bill 2766 was signed into law Health & Safety Code Sections 44220 - 44247 and the funding program described in that law has since been known as the AB2766 program, and;

**WHEREAS**, AB2766 funds are received to implement programs that reduce air pollution from motor vehicles and provides a funding source for cities and counties to meet requirements of federal and state Clean Air Acts, and for implementation of motor vehicle measures in the AQMD Air Quality Management Plan (AQMP), and;

**WHEREAS**, the City of Colton receives funding from the South Coast Air Quality Management Board in the form of AB2766, and;

**WHEREAS**, The Budget for the City of Colton for the Fiscal Year commencing July 1, 2011 and ending June 30, 2012, was approved and adopted, and;

**WHEREAS**, the reallocation of appropriations between departmental activities may be made by the City Manager, and amendments (increases/decreases) to the budget shall be by approval and resolution of the City Council.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COLTON DO HEREBY RESOLVE AS FOLLOWS:**

**Section 1** Authorize the use of a portion of the City's AB 2766 fund in the amount of \$14,895. for the OMNITRANS College Free Pass Pilot Program.

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