

THIS PRINT COVERS CALENDAR ITEM NO. 17

SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY

DIVISION: Finance and Information Technology

BRIEF DESCRIPTION:

Acting as both the SFMTA Board of Directors and the San Francisco Parking Authority Commission, authorizing the Director of Transportation to advertise a Request for Proposals for Advertising on San Francisco Municipal Transportation Agency Vehicles and Other Property.

SUMMARY:

- In 2009, the City entered into an Agreement for Advertising on SFMTA Vehicles and Other Property with a term of five years with Titan Outdoor; the Agreement expires on June 30, 2014.
- Under the proposed contract, the contractor will have the right to advertise on a wide range of properties owned or licensed by the SFMTA, including transit vehicles, parking garages and fare and parking media but not including the structures covered by the City's Transit Shelter Advertising Agreement, and will provide related infrastructure.
- The SFMTA and the winning firm will enter into a five-year contract, which will also include two five-year options to extend the contract in the SFMTA's sole discretion.
- The contractor will pay the SFMTA the greater of (i) a percentage of its gross revenues from advertising under the contract or (ii) a Minimum Annual Guarantee (MAG).
- The contractor will also pay the SFMTA annual administrative and marketing fees.
- The contract shall include a clause that enables the SFMTA to include an advertising program in the new Central Subway stations and tunnel after their completion.

ENCLOSURES:

1. SFMTAB and PAC Resolutions
2. RFP
3. List of Potential Bidders

APPROVALS:

DATE

DIRECTOR_____

10/8/13

SECRETARY_____

10/8/13

ASSIGNED SFMTAB CALENDAR DATE: October 15, 2013

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PURPOSE

This calendar item authorizes the Director of Transportation to advertise a Request for Proposals for Advertising on San Francisco Municipal Transportation Agency Vehicles and Other Property.

GOAL

This item will meet the following goals and objectives of the SFMTA Strategic Plan:

- Goal 3: Improve the environment and quality of life in San Francisco
- Objective 3.5: Reduce capital and operating structural deficits

DESCRIPTION

Background

The City and Titan Outdoor LLC entered into the current Agreement for Advertising on San Francisco Municipal Transportation Agency Vehicles and Other Property (“Agreement”) effective as of July 1, 2009. The Agreement has a term of five years and expires on June 30, 2014.

Major Provisions of the RFP and Sample Contract (see Enclosure 2)

Term

- The contract will be for a term of five years, beginning on July 1, 2014, plus two five-year options to extend the contract in the SFMTA’s sole discretion.

Rights Granted

- The contractor will have the right to advertise on a wide range of properties owned or licensed by the SFMTA (not including the structures covered by the City’s Transit Shelter Advertising Agreement with Clear Channel Outdoor, Inc.) and will provide related infrastructure.
- The contract will also allow the contractor to advertise on property under the jurisdiction of other City departments or agencies (for example, the Recreation and Park Department), subject to an authorizing agreement between the SFMTA and that department or agency.

Description of Included Property; Central Subway

- The following SFMTA property is included in the RFP and may be included in the contract: transit vehicles, parking garages, Twin Peaks Tunnel and SFMTA facilities and fare and parking media.
- The contract shall include a clause that enables the SFMTA to include an advertising program in the new Central Subway stations and tunnel following completion.

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Revenue; Payments

- The contractor will pay the SFMTA the greater of (i) a percentage of its gross revenues from advertising under the contract (at least 65%) or (ii) a Minimum Annual Guarantee (MAG) of revenue.
- The contractor will also pay the SFMTA an annual administrative fee of \$300,000 and annual marketing support of \$300,000; these payments will escalate annually according to the Consumer Price Index of the Bay Area.

Window Wraps and Non-Window Coverings

- The SFMTA currently allows full wraps of vehicles with windows covered (but not vehicle numbers or SFMTA insignia) on not more than 15 vehicles at any one time; the SFMTA may seek approval to continue a window wraps program at this level or at a different level when it seeks approval for the contract by the Board of Directors, the Parking Authority Commission and the San Francisco Board of Supervisors.
- The SFMTA intends to continue a program of advertisements that cover the body of the vehicle (but not windows, vehicle numbers or SFMTA insignia).
- The total number of such window wraps and non-window coverings together will not exceed 20% of the SFMTA's transit vehicles at any one time.
- Cable cars and historic vehicles will not receive any window wraps or non-window coverings.

Quality of Advertising

- The contractor will be required to comply with the provisions of the SFMTA Advertising Policy.

Maintenance Responsibilities

- The contractor will be required to maintain the advertisements that it installs and any infrastructure that supports such advertisements.

Performance Requirements and Security

- The contract includes various performance related requirements and provides for financial consequences if these requirements are not met. Some of these provisions are listed below:
 - Failure to provide an acceptable level of services will result in assessment of liquidated damages ranging from \$500/day to \$5,000/day, depending on the nature and severity of the failure;
 - The contractor will provide a letter of credit equal to the amount of the MAG for each fiscal year for the duration of the contract, including any extensions; and
 - The contractor will provide an additional security fund in the amount of \$250,000 to guarantee the performance of obligations not secured by the letter of credit.

Financial Responsibility of Proposers

- The proposer must submit copies of the prime firm's agreements with transit agencies for advertising on transit vehicles with a term extending over five years, along with a statement which compares the size of the financial commitment that the proposer is offering to make to the SFMTA for this contract as a proportion of the overall financial commitments that the proposer has made under all of its contracts for advertising on transit vehicles and/or other transit property.
- The proposer must also submit a bank or certified check or an Irrevocable Standby Letter of Credit in the amount of \$1,000,000 which will guarantee that if awarded the contract, the contractor shall furnish a letter of credit and insurance certificates in conformance with the terms and conditions of the RFP and the contract.

Minimum Requirements for Proposers

- The proposer, its key management team, and each of its subcontractors must have at least three years of experience in selling advertising on transit vehicles and/or other transit property in major metropolitan markets.
- The proposer must have had advertising contracts worth over \$10,000,000 per year for each of the last three years.
- The proposer must have had a corporate net worth of at least \$25,000,000 for the last three years.

Selection Process

- The selection of the winning bidder will be based on the following criteria. Each proposer may earn up to 100 points (plus bonus points which may be awarded):
 - Experience and Qualifications—20 points
 - Quality of the Proposal—30 points
 - Offer of Compensation—50 points (highest MAG offer gets 50 points, lower offers receive proportional number of points; must propose an Annual Revenue Share of at least 65% to be considered responsive; will receive bonus points for Annual Revenue Share over 65%).
- The final contract will require approval by the SFMTA Board of Directors, the Parking Authority Commission and the S Board of Supervisors.
- The successful proposer shall work with the SFMTA in meeting its commitments and objectives regarding nondiscrimination and equal employment in the award and administration of this project, and shall ensure that barriers do not exist for the participation of Small, Local and Disadvantaged Business Enterprises.

List of Bidders; Communications Prior to Contract Award and SFMTA Contact Person

Enclosure 3 sets forth the list of firms to whom the SFMTA will send the RFP.

It is the policy of the SFMTA that only employees identified in the RFP as contacts for this competitive solicitation are authorized to respond to comments or inquiries from proposers or potential proposers seeking to influence the contractor selection process or the award of the

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contract. This prohibition extends from the date the RFP is issued until the date when the contractor selection is finally approved by the SFMTA Board of Directors, the Parking Authority Commission and the San Francisco Board of Supervisors.

All firms and subcontractor(s) responding to this RFP are notified that they may not contact any SFMTA staff member, other than the person with whom contact is expressly authorized by this RFP—Julian Sutherland—for the purpose of influencing the contractor selection process or the award of the contract from the date that the RFP is issued to the date when the contract award is approved by the SFMTA Board of Directors and the Parking Authority Commission and by the Board of Supervisors. This prohibition does not apply to communications with SFMTA staff members regarding normal City business not regarding or related to this RFP.

The City Attorney’s Office has reviewed this report.

ALTERNATIVES CONSIDERED

The SFMTA would forgo an opportunity to continue receiving, and possibly increase revenue from advertising if it declines to issue this RFP and enter into a new contract.

FUNDING IMPACT

Revenue from this contract will be included in the SFMTA’s operating budget.

OTHER APPROVALS RECEIVED OR STILL REQUIRED

The contract will require the approval of the Board of Supervisors.

RECOMMENDATION

That the SFMTA Board of Directors and Parking Authority Commission authorize the issuance of a Request for Proposals for Advertising on San Francisco Municipal Transportation Agency Vehicles and Other Property.

MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. _____

WHEREAS, The current Transit Advertising Agreement for transit vehicles is due to expire on June 30, 2014; and

WHEREAS, The SFMTA has prepared a draft Request for Proposals for a new contract for advertising on San Francisco Municipal Transportation Agency Vehicles and Other Property, including transit vehicles, for a term of five years, which will also include two five-year options to extend the contract in the SFMTA's sole discretion; and

WHEREAS, Under the new contract, the contractor will have the right to advertise on a wide range of properties owned or licensed by the SFMTA, including transit vehicles, parking garages and fare and parking media but not including the structures covered by the City's Transit Shelter Advertising Agreement, and will provide related infrastructure; now, therefore, be it

RESOLVED, That the SFMTA Board of Directors authorizes the Director of Transportation to advertise a Request for Proposals for a new contract for Advertising on San Francisco Municipal Transportation Agency Vehicles and Other Property, on substantially the same terms presented to this Board of Directors.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of October 15, 2013.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

PARKING AUTHORITY COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION No. _____

WHEREAS, The current Transit Advertising Agreement for transit vehicles is due to expire on June 30, 2014; and

WHEREAS, The SFMTA has prepared a draft Request for Proposals for a new contract for advertising on San Francisco Municipal Transportation Agency Vehicles and Other Property, including transit vehicles, for a term of five years, which will also include two five-year options to extend the contract in the SFMTA's sole discretion; and

WHEREAS, Under the new contract, the contractor will have the right to advertise on a wide range of properties owned or licensed by the SFMTA, including transit vehicles, parking garages and fare and parking media but not including the structures covered by the City's Transit Shelter Advertising Agreement, and will provide related infrastructure; now, therefore, be it

RESOLVED, That the Parking Authority Commission authorizes the Director of Transportation to advertise a Request for Proposals for a new contract for Advertising on San Francisco Municipal Transportation Agency Vehicles and Other Property, on substantially the same terms presented to the Parking Authority Commission.

I certify that the foregoing resolution was adopted by the Parking Authority Commission at its meeting of October 15, 2013.

Secretary to the Parking Authority Commission

Enclosure 2—RFP, Contract and Other Exhibits



SFMTA

Municipal Transportation Agency

Request for Proposals for

RFP No. SFMTA 2014-13

(CCO No. 13-1273)

**Advertising on San Francisco Municipal Transportation
Agency Vehicles and Other Property**



Date issued:	October 16, 2013
Pre-proposal conference:	October 24, 2013, 10:00AM, PT
Proposal due:	November 26, 2013, 2:00PM, PT

RFP for Advertising on SFMTA Vehicles and Other Property

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A	Nondiscrimination Requirements Form 2A: CMD Contract Participation Form SFMTA Form No. 3 Questionnaire—Nondiscrimination Requirements Instructions Questionnaire on Recruitment, Hiring and Training Practices for Consultants Workforce Data Spreadsheet #1 Workforce Data Spreadsheet #2
B	Standard Forms: Listing and Internet addresses of Forms related to Taxpayer Identification Number and Certification, Business Tax Declaration, and Chapters 12B and 12C, and 14B of the S.F. Administrative Code
C	List of Included SFMTA Property
D	Documents that may include Restrictions on the Sale of Advertising on SFMTA Property
E	Contract Terms and Conditions
F	Attestation of Compliance on Communications Prior to Contract Award
G	Certification Regarding Debarment, Suspension, and Other Responsibility Matters
H	Certification Regarding Lobbying

I. Introduction and Schedule

A. Introduction

The San Francisco Municipal Transportation Agency (“SFMTA”), a department of the City and County of San Francisco (“City”), is requesting proposals from qualified firms to advertise, on an exclusive basis during the term of this contract, on a wide range of properties owned or licensed by the SFMTA and to provide related infrastructure.

The following SFMTA property is included in this contract: transit vehicles (see Appendix C-1), parking garages (see Appendix C-2), Twin Peaks Tunnel and SFMTA facilities (see Appendix C-3), fare and parking media (see Appendix C-4) and other property (see Appendix C-5). These properties include both existing advertising venues and venues that do not currently display advertising. Property that is subject to advertising rights under this contract may change over its term. For example, the Central Subway stations and tunnel may be added to the list of SFMTA facilities in the future.

The following SFMTA property is not included in this contract: bicycles and equipment related to any SFMTA bike-share program; signage; information kiosks; and technology-related property such as the SFMTA Website and smartphone applications. Naming rights/corporate sponsorships are also not included in this contract. In addition, certain City and SFMTA policies and existing contracts impose restrictions on advertising on SFMTA property, as described below.

The contract shall be for a term of five years, commencing on July 1, 2014. There will be two five-year options to extend the contract in the SFMTA’s sole discretion.

B. Schedule

The anticipated schedule for selecting a contractor is listed below. The SFMTA reserves the right to change the schedule at any time.

Proposal Phase	Date
RFP issued by the City	October 16, 2013
Pre-proposal conference	October 24, 2013
Deadline for submission of written questions or requests for clarification	October 31, 2013
Proposals due	November 26, 2013
Oral interviews	Week of December 9 or 16, 2013
Negotiations with selected firm	January 2014
SFMTA Board/Parking Authority Commission approval of contract	February 2014
Board of Supervisors approval of contract	April - May 2014
Contract start date	July 1, 2014

II. Scope of Work

The contractor will have the right to advertise, on an exclusive basis during the term of this contract, on a wide range of properties owned or licensed by the SFMTA (not including the structures covered by the Transit Shelter Agreement; see Appendix D-1) and to provide related infrastructure necessary to display the advertising, such as kiosks, signage and advertising boards.

The following SFMTA property is included in this contract: transit vehicles (see Appendix C-1), parking garages (see Appendix C-2), Twin Peaks Tunnel and SFMTA facilities (see Appendix C-3), fare and parking media (see Appendix C-4) and other property (see Appendix C-5). These properties include both existing advertising venues and venues that do not currently display advertising. Property that is subject to advertising rights under this contract may change over its term. For example, the Central Subway stations and tunnel may be added to the list of SFMTA facilities in the future.

The following SFMTA property is not included in this contract: bicycles and equipment related to any SFMTA bike-share program; signage; information kiosks; and technology-related property such as the SFMTA Website and smartphone applications. Naming rights/corporate sponsorships are also not included in this contract. In addition, certain City and SFMTA policies and existing contracts impose restrictions on advertising on SFMTA property, as described below.

In exchange for this exclusive right to sell advertising on SFMTA property, the contractor will be responsible for the following payments to the SFMTA (see Section III(D)(4) below and Appendix E, Section 8 ("Payments")) for more detailed information):

1. The greater of (i) a Minimum Annual Guarantee ("MAG") in an amount to be proposed in the contractor's response to this RFP or (ii) a share of the contractor's annual gross revenues earned in connection with the rights to advertise provided in the contract ("Annual Revenue Share") in a percentage to be proposed in the contractor's response to this RFP; and
2. An annual fee for administration of the contract; and
3. Annual financial support for SFMTA's marketing needs.

In addition, the contractor must provide all products and services included in this contract, including costs for related infrastructure, at no cost to the SFMTA. The contractor shall be responsible for installing, replacing and maintaining all frames, display equipment, decal adhesive materials and other advertising materials and advertising infrastructure for the term of this contract.

The following City, SFMTA and other policies and contracts impose restrictions on advertising on SFMTA property: the Transit Shelter Agreement (see Appendix D-1), the SFMTA Advertising Policy (see Appendix D-2) and the SFMTA's First Supplemental Muni/BART Joint Station Maintenance Agreement dated July 1, 1986 with the San Francisco Bay Area Rapid Transit District (BART) and the Professional Services Agreement dated as of June 12, 2008

between BART and Titan Outdoor LLC (see Appendix D-3). Proposers should review these documents before submitting their proposals.

Effective August 1, 2011, the SFMTA implemented a policy to allow full wraps of vehicles, with windows covered (but not vehicle numbers or SFMTA insignia), on not more than 15 vehicles at any one time. The SFMTA may seek approval to continue a window wraps program at this level or at a different level at any time. In addition, the SFMTA intends to continue a program of advertisements that cover the body of the vehicle (but not windows, vehicle numbers and SFMTA insignia). The total number of such window wraps and non-window coverings together will not exceed 20% of the SFMTA's transit vehicles at any one time, excluding cable cars and historic streetcars. All such window wraps and non-window coverings for transit vehicles are subject to policies adopted by the SFMTA Board of Directors and may change at any time during the term of this contract. In addition to the SFMTA Board of Directors, this contract must be approved by the San Francisco Board of Supervisors.

Revenue from the current contract is as follows:

Fiscal Year	MAG	Actual Revenue*
2009-2010	\$4,000,000	\$4,219,066
2010-2011	\$4,200,000	\$5,112,527
2011-2012	\$4,410,000	\$4,758,319
2012-2013	\$4,630,500	\$5,799,660
2013-2014	\$4,862,025	TBD

*Each fiscal year includes a 65% revenue share

Up to 20% of the SFMTA's transit vehicles may display digital advertising at any one time, excluding cable cars and historic streetcars. Digital advertising must be capable of being overridden when the SFMTA determines to use such infrastructure for emergency signage.

The SFMTA encourages firms to enter into joint ventures, as needed, in order to provide proposals that cover all or most of the locations for advertising on SFMTA property set forth in Appendices C-1 through C-5. Each advertising firm making up a joint venture must contribute a separate response to Section III(D)(3)(a) of this RFP.

The SFMTA encourages proposals that include creative ideas for enhancing revenue from all SFMTA property.

The contract shall be for a term of five years, commencing on July 1, 2014. There will be two five-year options to extend the contract in the SFMTA's sole discretion.

This scope of work is a general guide and is not intended to be a complete list of all work required under the contract. Respondents to this RFP should review the attached Contract Terms and Conditions (Appendix E) for more details on the requirements of the contract. The contractor will be required to execute a contract substantially similar to Appendix E.

III. Submission Requirements

A. Time and Place for Submission of Proposals

Proposals must be received by **2:00PM, Pacific Time, on November 26, 2013**. Postmarks will not be considered in judging the timeliness of submissions. Proposals may be delivered or mailed to:

SFMTA Contracts & Procurement
1 South Van Ness Avenue, 6th Floor
San Francisco, CA 94103
Attention: Julian Sutherland

Proposers shall submit the following:

- One original signed plus nine additional copies of the proposal, including completed and signed Appendices F, G and H. The original copy must have original signatures by an official with the firm who is authorized to submit a proposal on behalf of the firm. The proposal should be clearly marked **RFP for Advertising on SFMTA Vehicles and Other Property**, RFP No. SFMTA 2014-13.
- Two copies, in a separate sealed envelope, of the Offer of Compensation (see Section III(D)(4) below) clearly labeled “RFP No. SFMTA 2014-13 Offer of Compensation.”
- One original and one copy, separately collated and clipped, of signed and completed CMD Forms as required (see Section III(G) and Appendix A below) in a sealed envelope clearly marked “RFP No. SFMTA 2014-13 CMD Forms.”
- One copy of the entire proposal on a portable electronic media such as a CD or flash drive.

Proposals that are submitted by fax will not be accepted. Late submissions will not be considered.

B. Minimum Qualifications

Responsive proposals must document the proposer's compliance with the following minimum qualifications:

1. The proposer, its key management team, and each of its subcontractors must have at least three years of experience in selling advertising on transit vehicles and/or other transit property in major metropolitan markets.
2. The proposer must have had advertising contracts worth over \$10,000,000 per year for each of the last three years.
3. The proposer must have had a corporate net worth of at least \$25,000,000 for the last three years.

4. The proposer must demonstrate its financial stability by submitting the following:
 - a. A written commitment to provide a letter of credit annually in the amount of the MAG and a Security Fund in the amount of \$250,000;
 - b. Three bank references that will validate the prime firm's financial responsibility, including the name and phone number of a bank officer familiar with the firm's account; and
 - c. Copies of the prime firm's financial statements from the last three years, with profit and loss statements for transit and other advertising broken down in detail for major media markets in the United States.

Any proposal that does not demonstrate that the proposer meets these minimum requirements by the deadline for submittal of proposals will be considered non-responsive and will not be eligible for award of the contract.

C. Format

Proposals shall be clear, concise and complete. Partial or complete omission of any required element of the proposal will disqualify the proposal as non-responsive. The proposal shall total no more than 25 pages, double-sided. Documents requested in section D(4) of this Section III shall be submitted in a separate, sealed enveloped clearly labeled "Offer of Compensation" and will not be counted as part of the 25-page limit. Documents requested in Section (III)(G) shall be submitted separately and also will not be counted as part of the 25-page limit. All pages shall be 8-1/2" x 11", minimum size 11 font. All documents submitted shall be bound in a binder with each section separated by tabbed dividers and shall include a Table of Contents. Tabbed dividers shall be used to separate any distinct documents attached as appendices. Proposers must also submit an electronic version of the proposal.

D. Content

Firms interested in responding to this RFP must submit the following information, in the order specified below:

1. Introduction and Executive Summary

Submit a letter of introduction and executive summary of the proposal. The letter must be signed by a person authorized by your firm or joint venture to obligate the firm or joint venture to perform the commitments contained in the proposal. Submission of the letter will constitute a representation by the proposer that it is willing and able to perform the commitments contained in the proposal.

2. Experience and Qualifications

- a. Provide the full name, address, and phone number of the contact person at the prime firm, and any subcontractors, of the proposer's team. For all firms named in the proposal, provide the type of ownership, number of years each firm has been in business under the present business name (and any other prior names), and the

number of years of experience selling advertising on transit vehicles and/or other transit property, or of the type of work for which the firm is listed in the proposal.

- b. Include a description of the proposer's qualifications and experience, especially as they relate to advertising on transit vehicles and/or other transit property and to the implementation of transit agencies' advertising policies, including handling of controversial advertising issues.
- c. For the prime firm, list all contracts you have had during the last five years for advertising on transit vehicles and/or other transit property. For each contract, identify the agency, provide the names of individuals and telephone numbers and email addresses of contacts at the agency, specify the term (years) of the contract, and the type of services provided under the contract. These agencies may be contacted as business references.
- d. For the prime contractor and key subcontractors, name the key personnel who will have primary responsibilities for the services proposed. Identify the individual who will be the SFMTA's single point of contact for this project and who will direct, coordinate and control the contract (the "Contract Manager"). For each of the key personnel, specify his or her experience and qualifications, proposed project role, years with the firm, and years of experience in his or her assigned area of this project. Specify whether any members of the team have experience in "green" technology, including the use of green cleaning products. Include a written assurance that the key individuals listed will perform the work and will not be substituted with other personnel or reassigned to another project without the SFMTA's prior approval.
- e. Attach brief resumes of key personnel assigned to this project for each firm listed.
- f. Provide an organization chart naming all key personnel participating in the project. Identify the Contract Manager, the operations and maintenance manager, the person responsible for sales, and the person responsible for financial matters. Describe how the firm will assign and manage employees and subcontractors in order to provide the services described in the Scope of Work. Identify the relationships between the prime contractor and subcontractors, including the utilization of any small businesses. Describe how the proposed organization will optimally provide the services requested in the RFP.
- g. Specify whether the proposer (or any predecessor in interest) has been involved in any litigation involving any contract for advertising on transit vehicles and/or other transit property. Describe the nature of the litigation, the parties and the status or outcome (judgment, settlement, etc.)
- h. Specify whether a transit agency or municipality has ever terminated any contract with the proposer (or any predecessor in interest) for advertising on transit vehicles and/or other transit property. Identify the terminating agency, the inception and termination dates of the contract, and describe the nature of such termination (*e.g.* for cause, for convenience).

3. Proposal Approach

- a. Provide a description of the SFMTA properties listed on Appendices C-1 through C-5 for which the firm proposes to sell advertising. If any SFMTA property listed in Appendix C is excluded from the proposal, provide an explanation for why the firm is not proposing to sell advertising for that SFMTA property. The proposal shall also include a sales plan that will specify, at a minimum, (i) the proposer's strategy for selling advertisements to local, national and international advertisers, (ii) the proposer's strategy for selling advertisements for each of the different types of SFMTA property listed on Appendices C-1 through C-5 that are included in the proposal, and (iii) the proposer's plans for selling the maximum amount of advertising space on SFMTA property and minimizing the amount of empty, unused space. Proposals must include the transit vehicles listed in Appendix C-1, the parking garages listed in Appendix C-2 and fare and parking media listed in Appendix C-4.
- b. Include your firm's ideas for new advertising opportunities, designs and locations.
- c. Provide a maintenance and installation plan for advertising on transit vehicles and/or other transit property including:
 - (i) A time line showing elapsed time for advertisement posting, installation, inspection and removal.
 - (ii) A description of a cleaning schedule and routine, including graffiti removal and removal of paint, markers, stickers, unauthorized posters, etc.
 - (iii) A plan for minimizing interference to SFMTA operations during maintenance and installation activities.
 - (iv) A statement that your firm will repair any hazardous condition caused by the firm's installation, maintenance or removal of equipment, or other activities related to the contract, within 24 hours of notification.
 - (v) Plan for minimizing the use of maintenance products that contain hazardous materials and maximizing the use of green cleaning products.
 - (vi) Details of how your firm will staff and manage a quality assurance and control program, including oversight of subcontractors and vendors.
- d. Submit a design book which will include examples of your firm's proposed advertising for SFMTA property. This design book should include sample designs for as many types of SFMTA property as possible, but must include examples for transit vehicles, parking garages and fare and parking media.

4. Offer of Compensation

In exchange for this exclusive right to sell advertising on SFMTA property, the contractor will be responsible for the following payments to the SFMTA:

- a. On a monthly basis, the greater of:

- (i) a MAG in an amount to be proposed in the contractor's response to this RFP, including annual increases to the MAG and amounts for the option years (assuming that the SFMTA elects to exercise the two options to extend the contract); or
 - (ii) an Annual Revenue Share in a percentage to be proposed in the contractor's response to this RFP—in no event, however, shall this revenue share be less than 65%; and
- b. An annual fee of \$300,000 for administration of the contract, to be escalated each year by the percentage change in the 12 month average of the Consumer Price Index distributed by the Bureau of Labor Statistics for the Consolidated Metropolitan Statistical Area covering San Francisco - Oakland - San Jose, effective April 1 of each year ("Bay Area CPI"); and
- c. Annual marketing support of \$300,000, to be escalated each year by Bay Area CPI.

All proposals must also include a breakdown of the MAG for parking garages.

All proposals must include a written Offer of Compensation, which shall include a statement that the proposing firm agrees to make the payments described above. Any proposal that includes a MAG of less than the amounts described above shall be deemed non-responsive.

5. Financial Responsibility

The proposer must demonstrate its financial responsibility by submitting the following:

- a. Electronic copies of the prime firm's agreements with transit agencies for advertising on transit vehicles with a term extending over the next five years;
- b. A statement which compares the size of the financial commitment that the proposer is offering to make to the SFMTA for this contract as a proportion of the overall financial commitments that the proposer has made under all of its contracts for advertising on transit vehicles and/or other transit property. Include an explanation of the proposer's ability to absorb these new financial commitments without adversely affecting its overall operations and profitability; and
- c. A bank or certified check or an Irrevocable Standby Letter of Credit in the amount of \$1,000,000. The bid security check or Irrevocable Standby Letter of Credit shall guarantee that if awarded the contract, the contractor shall furnish a letter of credit and insurance certificates in conformance with the terms and conditions of this RFP and the contract. Security for the proposal, whether a bank or certified check or an Irrevocable Standby Letter of Credit, must accompany the proposal. The bid security check must be issued by a financial institution acceptable to the City in its sole discretion, which financial institution must (a) be a bank or trust company doing business and having an office in the City and County of San Francisco, (b) have a combined capital and surplus of at least \$25,000,000, and (c) be subject to supervision or examination by federal or state authority and with at least a Moody's A rating. The financial institution does not need to be a bank of the State of California. The Irrevocable Standby Letter of Credit must be issued by a financial institution acceptable to the City in its sole discretion, which financial institution must (a) be a bank or trust company doing business and having an office in the City and County of San Francisco, (b) have a combined capital

and surplus of at least \$25,000,000, and (c) be subject to supervision or examination by federal or state authority and with at least a Moody's A rating.

E. Central Subway Project

The City, in its sole discretion, may add to the contract the implementation of an advertising program in the new Central Subway stations and tunnel after their completion. This advertising program will result in additional MAG amounts to be paid to the SFMTA based upon sales to date, expected types of advertising in the new Central Subway stations and tunnels and expected revenues. The SFMTA and the contractor will negotiate the actual amounts to be added to the MAG over the remaining term of the contract near the time of the project's completion and the beginning of revenue service, currently scheduled for 2019.

Proposals must include the following information:

- a. Proposer's experience in providing similar programs in subway and tunnel systems, including the names of clients and a description of those programs;
- b. Samples of subway and tunnel advertisements; and
- c. Examples of revenues paid by contractor to clients for similar programs.

F. Attestation Statements and Certifications

The proposer and all subcontractors named in a proposal must individually sign the Attestation of Compliance and Certifications attached as Appendices F, G and H. Any proposal that does not include the executed Attestation of Compliance and Certifications as required by the RFP will be deemed non-responsive and will not be scored. Any proposer who violates representations made in the Attestation of Compliance and Certifications, directly or through an agent, lobbyist or subcontractor, will be disqualified from the selection process for this contract.

G. Other Required Documents

In addition to the requirements on the content of the proposal discussed above, proposers must submit the following documents as part of the submittal described in Section III(A) above. Proposers must also submit items 1 through 3 for each proposed subcontractor:

1. Completed SFMTA Questionnaire on Recruitment, Hiring and Training Practices (Appendix A)
2. A copy of the firm's Nondiscrimination Program or EEO Policy Statement (if any)
3. Completed Business Tax Declaration
4. Completed Contract Monitoring Division CMD-12B-101 Form
<http://sfgsa.org/modules/showdocument.aspx?documentid=10257>

If using LBE firms as part of your proposal, submit Form 2A: CMD Contract Participation Form (Appendix A).

IV. Evaluation and Selection Criteria

A. Contractor Selection Process

A Selection Committee will evaluate the proposals using the selection criteria outlined below. All responsive proposers will be invited to make a presentation and participate in an oral interview that will include detailed discussions of the various elements of their proposals. The SFMTA will provide directions on presentation materials and information prior to the oral interview. Those individuals who will actually be assigned to the project shall make presentations at the oral interview. Firms may be required to submit additional information to clarify their proposals prior to or at the interview.

The SFMTA will negotiate a contract with the proposer with the highest total score. If the SFMTA is unable to negotiate a contract with the highest-ranked proposer in a reasonable time, the SFMTA, in its sole discretion, may terminate negotiations with the highest-ranked proposer and begin contract negotiations with the next highest-ranked proposer. The final Agreement will be approved by the SFMTA Board of Directors, the Parking Authority Commission and the San Francisco Board of Supervisors.

The SFMTA reserves the right not to negotiate with proposers and to select the highest-ranked proposer and its proposal as submitted.

Proposers may request debriefing on a firm's final ranking in writing. Debriefing will be scheduled after final award of the contract.

B. Selection Criteria

The proposals will be evaluated by a Selection Committee comprised of SFMTA and City representatives. The Selection Committee may also include representatives of other transit agencies and persons knowledgeable about transit and transit advertising. The City intends to evaluate the proposals generally in accordance with the criteria itemized below. The firms will be interviewed by the Selection Committee to make the final selection.

1. Experience and Qualifications (up to 20 points)

- a. Expertise of the firm, assigned personnel and subcontractors in managing a transit advertising contract; and
- b. Quality of organization structure; and
- c. Results of reference checks.

2. Quality of the Proposal (up to 30 points)

- a. Understanding of the scope of work and tasks to be performed; and
- b. Completeness of the proposal, including the number and variety of SFMTA properties listed on Appendices C-1 through C-5 for which the firm has submitted a proposal to sell advertising and the quality of the sales plan; and
- c. Creativity of ideas included in the proposal; and
- d. Creativity of designs included in the proposal, and
- e. Quality of proposed maintenance and installation plan.

3. Offer of Compensation (up to 50 points; bonus points may also be awarded)

All proposers must meet, at a minimum, the Annual Revenue Share set forth in section III.D(4). **Any proposal that does not meet the Annual Revenue Share will be deemed non-responsive.** The proposer with the highest total MAG payment offer over 15 years, considering the net present value to the City, will be awarded 50 points. Other proposers will be awarded points in proportion to the proposer with the highest score. The formula is as follows:

$$\text{(lower) proposer's score} = \frac{\text{value of proposer offer}}{\text{value of highest proposer's offer}} \times 50$$

In addition, for the Annual Revenue Share, each proposal will receive four points for each percentage point over 65% and up to 70%, up to 20 total points. If the percentage in the proposal varies over the 15-year period covered by this RFP, then points will be awarded based on the average percentage offer over the 15-year period. Finally, each proposal will receive five bonus points for each percentage point over 70%.

V. Pre-Proposal Conference and Contract Award

A. Pre-Proposal Conference

Proposers are encouraged to attend a pre-proposal conference on **October 24, 2013**, at **10:00AM, Pacific Time**, to be held at One South Van Ness Avenue, San Francisco, CA 94103 to discuss the requirements of the contract and to take questions concerning the RFP. All prospective proposers are urged to attend this conference. A written list of attendees will be available at the end of the meeting.

B. Contract Award

SFMTA staff will commence contract negotiations with the highest ranked proposer. The selection of any proposal shall not imply acceptance by the City of all terms of the proposal, which may be subject to further negotiations and approvals. If a satisfactory contract cannot be negotiated in a reasonable time the SFMTA, in its sole discretion, may terminate negotiations with the highest ranked proposer and begin contract negotiations with the next highest ranked proposer.

The contract will not be awarded until such time as (a) the Director of Transportation of the SFMTA recommends the Agreement for award, (b) the SFMTA Board of Directors and Parking Authority Commission each adopt a resolution awarding the Agreement, and (c) the contract is approved by the San Francisco Board of Supervisors.

C. Form of Contract

The successful proposer will be required to enter into a contract on terms substantially similar to Appendix E. Failure to timely execute the contract, or to furnish any and all insurance certificates and policy endorsements, surety bonds, letter of credit or other materials required in the contract, shall be deemed an abandonment of a contract offer. If the highest-ranked proposer

fails to comply with these requirements, the SFMTA, in its sole discretion, may select another firm and may proceed against the original firm selected for damages.

VI. Terms and Conditions for Receipt of Proposals

A. Errors and Omissions in RFP

Proposers are responsible for reviewing all portions of this RFP. Proposers are to promptly notify the SFMTA, in writing, if the proposer discovers any ambiguity, discrepancy, omission, or other error in the RFP. Any such notification should be directed to the SFMTA promptly after discovery, but in no event later than 10 calendar days prior to the date for receipt of proposals. Modifications and clarifications will be made by addenda as provided below.

B. Questions

Questions regarding this RFP should be addressed in writing to:

SFMTA Contracts & Procurement
One South Van Ness Avenue, 6th Floor
San Francisco, California 94103
Attention: Julian Sutherland
Julian.Sutherland@sfmta.com

The SFMTA will keep a record of all parties who request and receive copies of the RFP. Any requests for information concerning the RFP, whether submitted before or after the pre-proposal conference, must be in writing, and any substantive replies will be issued as written addenda to all parties who have requested and received a copy of the RFP from the SFMTA. Questions raised at the pre-proposal conference may be answered orally. If any substantive new information is provided in response to questions raised at the pre-proposal conference, it will also be memorialized in a written change notice to this RFP and will be posted on the SFMTA website. No questions or requests for interpretation will be accepted after **2:00PM, Pacific Time, on October 31, 2013.**

C. Objections to RFP Terms

Should a proposer object on any ground to any provision or legal requirement set forth in this RFP, the proposer must, not more than 10 calendar days after the RFP is issued, provide written notice to the SFMTA setting forth with specificity the grounds for the objection. The failure of a proposer to object in the manner set forth in this paragraph shall constitute a complete and irrevocable waiver of any such objection.

D. Change Notices

The SFMTA may modify the RFP, prior to the proposal due date, by issuing Change Notices, which will be posted on the website. The proposer shall be responsible for ensuring that its proposal reflects any and all Change Notices issued by the SFMTA prior to the proposal due date regardless of when the proposal is submitted. Therefore, the SFMTA recommends that the

proposer consult the website frequently, including shortly before the proposal due date, to determine if the proposer has downloaded all Change Notices.

E. Term of Proposal

Submission of a proposal signifies that the proposer's offer remains open for one year from the proposal due date and that the offer is genuine and not the result of collusion or any other anti-competitive activity.

F. Revisions to Proposal

A proposer may revise a proposal at the proposer's own discretion at any time before the deadline for submission of proposals. The proposer must submit the revised proposal in the same manner as the original. A revised proposal must be received on or before the proposal due date.

In no case will a statement of intent to submit a revised proposal, or commencement of a revision process, extend the proposal due date for any proposer.

At any time during the proposal evaluation process, the SFMTA may require a proposer to provide oral or written clarification of its proposal. The SFMTA reserves the right to make an award without further clarifications of proposals received.

G. Errors and Omissions in Proposal

Failure by the SFMTA to object to an error, omission, or deviation in the proposal will in no way modify the RFP or excuse the proposer from full compliance with the specifications of the RFP or any contract awarded pursuant to the RFP.

H. Financial Responsibility

The SFMTA accepts no financial responsibility for any costs incurred by a firm in responding to this RFP. Submissions of the RFP will become the property of the City and may be used by the City in any way deemed appropriate.

I. Proposer's Obligations under the Campaign Reform Ordinance

Proposers must comply with Section 1.126 of the S.F. Campaign and Governmental Conduct Code, which states:

No person who contracts with the City and County of San Francisco for the rendition of personal services, for the furnishing of any material, supplies or equipment to the City, or for selling any land or building to the City, whenever such transaction would require approval by a City elective officer, or the board on which that City elective officer serves, shall make any contribution to such an officer, or candidates for such an office, or committee controlled by such officer or candidate at any time between commencement of negotiations and the later of either (1) the termination of negotiations for such contract, or (2) three months have elapsed from the date the

contract is approved by the City elective officer or the board on which that City elective officer serves.

If a proposer is negotiating for a contract that must be approved by an elected local officer or the board on which that officer serves, during the negotiation period the proposer is prohibited from making contributions to:

- the officer's re-election campaign
- a candidate for that officer's office
- a committee controlled by the officer or candidate.

The negotiation period begins with the first point of contact, either by telephone, in person, or in writing, when a contractor approaches any city officer or employee about a particular contract, or a city officer or employee initiates communication with a potential contractor about a contract. The negotiation period ends when a contract is awarded or not awarded to the contractor. Examples of initial contacts include: (1) a vendor contacts a city officer or employee to promote himself or herself as a candidate for a contract; and (2) a city officer or employee contacts a contractor to propose that the contractor apply for a contract. Inquiries for information about a particular contract, requests for documents relating to a Request for Proposal, and requests to be placed on a mailing list do not constitute negotiations.

Violation of Section 1.126 may result in the following criminal, civil, or administrative penalties:

1. **Criminal.** Any person who knowingly or willfully violates section 1.126 is subject to a fine of up to \$5,000 and a jail term of not more than six months, or both.
2. **Civil.** Any person who intentionally or negligently violates section 1.126 may be held liable in a civil action brought by the civil prosecutor for an amount up to \$5,000.
3. **Administrative.** Any person who intentionally or negligently violates section 1.126 may be held liable in an administrative proceeding before the Ethics Commission held pursuant to the Charter for an amount up to \$5,000 for each violation.

For further information, proposers should contact the San Francisco Ethics Commission at (415) 581-2300.

J. Sunshine Ordinance

In accordance with S.F. Administrative Code Section 67.24(e), contractors' bids, responses to RFPs and all other records of communications between the City and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefits until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

K. Public Access to Meetings and Records

If a proposer is a non-profit entity that receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the S.F. Administrative Code, the proposer must comply with Chapter 12L. The proposer must include in its proposal (1) a statement describing its efforts to comply with the Chapter 12L provisions regarding public access to proposer's meetings and records, and (2) a summary of all complaints concerning the proposer's compliance with Chapter 12L that were filed with the City in the last two years and deemed by the City to be substantiated. The summary shall also describe the disposition of each complaint. If no such complaints were filed, the proposer shall include a statement to that effect. Failure to comply with the reporting requirements of Chapter 12L or material misrepresentation in proposer's Chapter 12L submissions shall be grounds for rejection of the proposal and/or termination of any subsequent Agreement reached on the basis of the proposal.

L. Reservations of Rights by the City

The issuance of this RFP does not constitute an agreement by the City that any contract will actually be entered into by the City. The City expressly reserves the right at any time to:

1. Waive or correct any defect or informality in any response, proposal, or proposal procedure;
2. Reject any or all proposals;
3. Reissue a Request for Proposals;
4. Prior to submission deadline for proposals, modify all or any portion of the selection procedures, including deadlines for accepting responses, the specifications or requirements for any materials, equipment or services to be provided under this RFP, or the requirements for contents or format of the proposals;
5. Procure any materials, equipment or services specified in this RFP by any other means;
or
6. Determine that no project will be pursued.

M. No Waiver

No waiver by the City of any provision of this RFP shall be implied from any failure by the City to recognize or take action on account of any failure by a proposer to observe any provision of this RFP.

N. Equal Opportunity in Employment and Contracting

The SFMTA encourages each proposer, including subcontractors, to actively recruit minorities and women for its workforce. The Questionnaire on Recruitment, Hiring and Training Practices (Appendix A) is a workforce questionnaire for each proposer to submit with its proposal. The SFMTA also requests copies of any non-discrimination or equal employment opportunity plans that proposers have in place.

The successful proposer will be required to comply with the City's First Source Hiring requirements, and will also be required to hire a minimum of two trainees during performance of

the contract. Further information about these requirements can be found in Sections 19.2 and 20 of Appendix E.

The SFMTA encourages proposers to submit proposals that make maximum utilization of San Francisco Contract Monitoring Division-certified Local Business Enterprises in the performance of work under the contract. Please refer to the Contract Monitoring Division's website at http://mission.sfgov.org/hrc_certification for the City's Local Business Enterprise Directory. Questions about available firms should be addressed to:

Preston Tom
SFMTA Contract Compliance Office
One South Van Ness, 6th floor
San Francisco, CA 94103
Tel: (415) 701-4437
Email: preston.tom@sfmta.com

O. Communications Prior to Contract Award

It is the policy of the SFMTA that only employees identified in the RFP as contacts for this competitive solicitation are authorized to respond to comments or inquiries from proposers or potential proposers seeking to influence the contractor selection process or the award of the contract. This prohibition extends from the date the RFP is issued until the date when the contractor selection is finally approved by the SFMTA Board of Directors and the San Francisco Board of Supervisors.

All firms and subcontractor(s) responding to this RFP are hereby notified that they may not contact any SFMTA staff member, other than a person with whom contact is expressly authorized by this RFP (Julian Sutherland), for the purpose of influencing the contractor selection process or the award of the contract from the date the RFP is issued to the date when the contract award is approved by the Board of Directors of SFMTA and the Parking Authority Commission and the San Francisco Board of Supervisors. This prohibition does not apply to communications with SFMTA staff members regarding normal City business not regarding or related to this RFP.

All firms and subcontractor(s) responding to this RFP are hereby notified that any written communications sent to one or more members of the SFMTA Board of Directors concerning a pending contract solicitation shall be distributed by the SFMTA to all members of the SFMTA Board of Directors and the designated staff contact person(s) identified in the RFP.

Except as expressly authorized in the RFP, where any person representing a proposer or potential proposer contacts any SFMTA staff for the purpose of influencing the content of the competitive solicitation or the award of the contract between the date when the RFP is issued and the date when the final selection is approved by the SFMTA Board of Directors, and the San Francisco Board of Supervisors, the proposer or potential proposer shall be disqualified from the selection process. However, a person who represents a proposer or potential proposer may contact City elected officials and may contact the Director of Transportation of the SFMTA if s/he is unable to reach the designated staff contact person(s) identified in the RFP or wishes to raise concerns

about the competitive solicitation.

Additionally, the firms and subcontractor(s) responding to this RFP will not provide any gifts, meals, transportation, materials or supplies or any items of value or donations to or on behalf of any SFMTA staff member from the date the RFP is issued to the date when the contract award is approved by the Board of Directors of SFMTA and the San Francisco Board of Supervisors.

All lobbyists or any agents representing the interests of proposing prime contractors and subcontractor(s) shall also be subject to the same prohibitions.

An executed Attestation of Compliance (Appendix F) certifying compliance with this section of the RFP will be required to be submitted signed by all firms and named subcontractor(s) as part of the response to the this RFP. Any proposal that does not include the executed Attestation of Compliance as required by this section will be deemed non-responsive and will not be evaluated. Any proposer who violates the representations made in such Attestation of Compliance, directly or through an agent, lobbyist or subcontractor, will be disqualified from the selection process.

P. Employment Non-Discrimination and Economically Disadvantaged Workforce Hiring Provisions

1. General

As a condition of contract award, consultants and subconsultants shall comply with the nondiscrimination in employment provisions required by Chapter 12B of the Administrative Code and the hiring of economically disadvantaged persons as required by the City's First Source Hiring Program, Chapter 83 of the Administrative Code.

2. Nondiscrimination Provisions

- a. Prior to the award of the contract, the consultant must agree that it does and will not, during the time of the contract or any contract amendment, discriminate in the provision of benefits between its employees with spouses and employees with domestic partners.

- b. The consultant and subconsultants on this contract will not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or AIDS/HIV status, weight, height, or association with members of classes protected under this chapter or in retaliation for opposition to any practices forbidden under this chapter. Discrimination on the basis of sex includes sexual harassment as defined in Section 16.9-25(b) of the Code. The consultant, contractor or subconsultant/subcontractor will take action to ensure that applicants are employed, and that employees are treated equally during employment, without regard to the fact or perception of their race, color, creed, religion, ancestry, national origin, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability, weight, height, or AIDS/HIV status. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer; recruitment

or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship.

3. Non-Compliance with Chapter 12B Prior to Contract Award

The consultant and any subconsultants must be in compliance with the nondiscrimination provisions of Chapter 12B, on all existing City contracts prior to award of this contract. Prior to the award of this contract, the SFMTA has the authority to review the consultant's and subconsultant's prior performance to ensure compliance with the nondiscrimination provisions of Chapter 12B.

If the SFMTA determines that there is cause to believe that a consultant or subconsultant is not in compliance with the nondiscrimination provisions of Chapter 12B, the SFMTA shall attempt to resolve the non-compliance through conciliation.

- a. If the non-compliance cannot be resolved, the SFMTA shall submit to the consultant or subconsultant a written Finding of Non-compliance.
- b. The SFMTA shall give the consultant or subconsultant an opportunity to appeal the Finding.
- c. The SFMTA may stay the award of any contract to a consultant where the consultant or any subconsultant is the subject of an investigation by written notice to the SFMTA.

4. Complaints of Discrimination after Contract Award

- a. A complaint of discrimination in employment initiated by any party after contract award shall be processed in accordance with CCO procedures.
- b. A finding of discrimination may result in imposition of appropriate sanctions, including:
 - (i) There may be deducted from the amount payable to the consultant or subconsultant under this contract a penalty of \$50 for each person for each calendar day the person was discriminated against in violation of the provisions of the contract.
 - (ii) The contract may be canceled, terminated or suspended in part by the SFMTA.
 - (iii) The consultant, subconsultant or vendor may be determined ineligible to perform work or supply products on any City contract for a period not to exceed two years.

5. Trainees – First Source Hiring Program

- a. **Trainee Requirements:** Consultants are required to comply with the City's First Source Program, Administrative Code Section 83, which fosters employment opportunities for economically disadvantaged individuals. Consultants are required to notify the First Source Program of all open, entry-level positions and consider all

program referrals fairly and equally. In addition, the SFMTA requires consultants to hire a minimum number of professional service trainees in the area of the consultant’s expertise. These hires count toward the First Source Hiring requirements. Trainees may be obtained through the City’s One Stop Employment Center, which works with various employment and job training agencies/organizations or other employment referral source.

Number of Trainees	
Project Fees	To Be Hired
\$0 – \$499,999	0
\$500,000 – \$899,999	1
\$900,000 – \$1,999,999	2
\$2,000,000 – \$4,999,999	3
\$5,000,000 – \$7,999,999	4
\$8,000,000 – \$10,999,999	5
\$11,000,000 – \$13,999,999	6
(> = \$14M, for each additional \$3 million in consultant fees, add one additional trainee)	

- b. The trainee must be hired by the prime consultant or by any subconsultant on the project team.
- c. No trainee may be counted towards meeting more than one contract goal.
- d. A trainee must meet qualifications for enrollment established under the City’s First Source Hiring Program as follows:
 - (i) “Qualified” with reference to an economically disadvantaged individual shall mean an individual who meets the minimum bona fide occupational qualifications provided by the prospective employer to the San Francisco Workforce Development System in the job availability notices required by the Program, and
 - (ii) “Economically disadvantaged individual” shall mean an individual who is either: (1) eligible for services under the Workforce Investment Act of 1988 (WIA) (29 U.S.C.A 2801 et seq.), as determined by the San Francisco Private Industry Council; or (2) designated “economically disadvantaged” for the First Source Hiring Administration, as an individual who is at risk of relying upon, or returning to, public assistance.
- e. On-the-job Training (to be provided by the consultant): The consultant shall hire the trainee on a full-time basis for at least 12 months or on a part-time basis for 24 months, with prior approval offering him/her on-the-job training which allows the trainee to progress on a career path.
- f. A summary of a job description and training for the trainee with the rate of pay should be submitted for approval.

- g. The trainee's commitment does not require that he/she is used only on this project, but also on other projects under contract to the Architect, Engineering, or Professional firm, which is appropriate for the trainee's skill development.

VII. Contract Requirements

A. Standard Contract Provisions

Proposers are urged to pay special attention to the requirements of Administrative Code Chapters 12B and 12C, Nondiscrimination (§34 in Appendix E); the Minimum Compensation Ordinance (§43 in Appendix E); the Health Care Accountability Ordinance (§44 in Appendix E); the First Source Hiring Program (§45 in Appendix E); and applicable conflict of interest laws (§23) in Appendix E), as set forth in paragraphs B, C, D, E and F below.

B. Nondiscrimination in Contracts and Benefits

The successful proposer will be required to agree to comply fully with and be bound by the provisions of Chapters 12B and 12C of the San Francisco Administrative Code. Generally, Chapter 12B prohibits the City and County of San Francisco from entering into contracts or leases with any entity that discriminates in the provision of benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of employees. The Chapter 12C requires nondiscrimination in contracts in public accommodation. Additional information on Chapters 12B and 12C is available on the CMD's website at <http://sfgsa.org/index.aspx?page=6058>.

C. Minimum Compensation Ordinance (MCO)

The successful proposer will be required to agree to comply fully with and be bound by the provisions of the Minimum Compensation Ordinance (MCO), as set forth in S.F. Administrative Code Chapter 12P. Generally, this Ordinance requires contractors to provide employees covered by the Ordinance who do work funded under the contract with hourly gross compensation and paid and unpaid time off that meet certain minimum requirements. For the contractual requirements of the MCO, see §43 in Appendix E.

For the amount of hourly gross compensation currently required under the MCO, see www.sfgov.org/olse/mco. Note that this hourly rate may increase on January 1 of each year and that contractors will be required to pay any such increases to covered employees during the term of the contract.

Additional information regarding the MCO is available on the web at <http://sfgsa.org/index.aspx?page=403>.

D. Health Care Accountability Ordinance (HCAO)

The successful proposer will be required to agree to comply fully with and be bound by the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in S.F. Administrative Code Chapter 12Q. Contractors should consult the San Francisco Administrative

Code to determine their compliance obligations under this chapter. Additional information regarding the HCAO is available on the web at <http://sfgsa.org/index.aspx?page=407>.

E. First Source Hiring Program (FSHP)

If the contract is for more than \$50,000, then the First Source Hiring Program (Admin. Code Chapter 83) may apply. Generally, this ordinance requires contractors to notify the First Source Hiring Program of available entry-level jobs and provide the Workforce Development System with the first opportunity to refer qualified individuals for employment.

Contractors should consult the San Francisco Administrative Code to determine their compliance obligations under this chapter. Additional information regarding the FSHP is available on the web at <http://www.workforcedevelopmentsf.org/businessservices/> and from the First Source Hiring Administrator, Lillie.Ellison@sfgov.org or call (415) 701-4883.

F. Conflicts of Interest

The successful proposer will be required to agree to comply fully with and be bound by the applicable provisions of state and local laws related to conflicts of interest, including Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California. The successful proposer will be required to acknowledge that it is familiar with these laws; certify that it does not know of any facts that constitute a violation of said provisions; and agree to immediately notify the City if it becomes aware of any such fact during the term of the Agreement.

Individuals who will perform work for the City on behalf of the successful proposer might be deemed consultants under state and local conflict of interest laws. If so, such individuals will be required to submit a Statement of Economic Interests, California Fair Political Practices Commission Form 700, to the City within ten calendar days of the City notifying the successful proposer that the City has selected the proposer.

VIII. Protest Procedures

A. Protest Of Non-Responsiveness Determination

Within five working days of the City's issuance of a notice of non-responsiveness, any firm that has submitted a proposal and believes that the City has incorrectly determined that its proposal is non-responsive may submit a written notice of protest. Such notice of protest must be received by the City on or before the fifth working day following the City's issuance of the notice of non-responsiveness. The notice of protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the proposer, and must cite the law, rule, local ordinance, procedure or RFP provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for the City to determine the validity of the protest.

The SFMTA reserves the right to proceed in the proposal selection process with the responsive proposers during the five-day protest period. The SFMTA will cease the proposal selection process only when it receives a notification of decision that is in favor of the protester.

B. Protest of Contract Award

Within five working days of the City's issuance of a notice of intent to award the contract, any firm that has submitted a responsive proposal and believes that the City has incorrectly selected another proposer for award may submit a written notice of protest. Such notice of protest must be received by the City on or before the fifth working day after the City's issuance of the notice of intent to award.

The notice of protest must include a written statement specifying in detail each and every one of the grounds asserted for the protest. The protest must be signed by an individual authorized to represent the proposer, and must cite the law, rule, local ordinance, procedure or RFP provision on which the protest is based. In addition, the protestor must specify facts and evidence sufficient for the City to determine the validity of the protest.

C. Delivery of Protests

All protests must be received by the due date. If a protest is mailed, the protestor bears the risk of non-delivery within the deadlines specified herein. Protests should be transmitted by a means that will objectively establish the date the City received the protest. Protests or notice of protests made orally (e.g., by telephone) will not be considered. Protests must be delivered to:

San Francisco Municipal Transportation Agency
1 South Van Ness Avenue, 8th Floor
San Francisco, CA 94103
Attention: Julian Sutherland

Appendix A
Nondiscrimination Requirements

FORM 2A: CMD CONTRACT PARTICIPATION FORM

Section 1: This form must be submitted with the proposal or the proposal may be deemed non-responsive and rejected. Prime Proposer, each Joint Venture Partner, Subconsultants, Vendors, and lower sub tiers must be listed on this form. Only CMD certified Small and/or Micro-LBEs can be used to meet the LBE subconsultant participation goal unless the RFP allows for SBA-LBE subconsultants to count towards the LBE participation goal. A Small and/or Micro- LBE Prime proposer/JV with LBE participation must meet the LBE subconsultant goal. A Small and/or Micro-LBE Prime proposer/JV with LBE participation may not count its participation towards meeting the LBE subconsultant participation goal. Be sure to check box for Rating Bonus. If more space is needed, attach additional copies of this form. This form is also completed and submitted for all contract modifications which exceed the original contract amount by more than 20%.

Contract:		RATING BONUS	
		<input type="checkbox"/> LBE 10%	<input type="checkbox"/> Joint Venture 7.5%
Firm:		<input type="checkbox"/> Joint Venture 5%	<input type="checkbox"/> Joint Venture 10% (LBEs ONLY)
Contact Person:		<input type="checkbox"/> No Rating Bonus Requested	
Address:		LBE Goal %	
City/ZIP			
Phone			

***Type: Identify if prime (P), JV partner (J), Subconsultant (S), or Vendor (V)**

TYPE *	Firm	PORTION OF WORK (describe scope(s) of work)	% OF WORK	INDICATE LBE YES/NO	If an LBE, Identify MBE, WBE, or OBE **	% OF LBE SUBWORK
			%			%
			%			%
			%			%
			%			%
				Total % of Work: 100%	Total LBE Subconsulting%	%

I declare, under penalty of perjury under the laws of the State of California, that I am utilizing the above Consultants for the portions of work and amounts as reflected in the Proposal for this Contract.

**Owner/Authorized Representative
(Signature):** _____

Date: _____

Print Name and Title: _____

** MBE = Minority Business Enterprise, WBE = Women Business Enterprise, OBE = Other Business Enterprise. See CMD website: <http://sfgov.org/cmd> for each firm's status.

Section 2. Prime Proposer, Joint Venture Partners, Subconsultant, and Vendor Information

Provide information for each firm listed in Section 1 of this form. Firms which have previously worked on City contracts may already have a vendor number. Vendor numbers of LBE firms are located in the CMD LBE website at <http://sfgov.org/cmd>. Use additional sheets if necessary.

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID#:	_____
CITY, ST, ZIP:	_____	PHONE	_____
SERVICE:	_____	FAX:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID#:	_____
CITY, ST, ZIP:	_____	PHONE	_____
SERVICE:	_____	FAX:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID#:	_____
CITY, ST, ZIP:	_____	PHONE	_____
SERVICE:	_____	FAX:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID#:	_____
CITY, ST, ZIP:	_____	PHONE	_____
SERVICE:	_____	FAX:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID#:	_____
CITY, ST, ZIP:	_____	PHONE	_____
SERVICE:	_____	FAX:	_____

FIRM NAME:	_____	VENDOR #:	_____
ADDRESS:	_____	FEDERAL ID#:	_____
CITY, ST, ZIP:	_____	PHONE	_____
SERVICE:	_____	FAX:	_____

PROPOSER: _____

**SFMTA FORM No. 3
SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY
QUESTIONNAIRE
NONDISCRIMINATION REQUIREMENTS**

Professional or Technical Services

Instructions

1. Please complete and return the attached Nondiscrimination Questionnaire and Workforce Data Spreadsheets with your proposal.
2. Please complete the questionnaire for the office that will ultimately perform the project work.
3. The questionnaire must be completed by:
 - a. All prime consultants
 - b. All joint venture partners and subconsultants
4. Support firms (e.g., printers, photographers, etc.) need not complete any part of the questionnaire.
5. Approved State or Federal Nondiscrimination Programs may be substituted for those items where the information requested in the questionnaire is identical to that contained in the State or Federal Programs.
6. If the questionnaire(s) is/are not correctly and fully completed, SFMTA may elect not to consider your proposal.
7. Submit with the questionnaire a copy of your firm's Non-discrimination Program or EEO Policy Statement.

SFMTA FORM No. 3

**SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY
QUESTIONNAIRE ON RECRUITMENT, HIRING, AND TRAINING PRACTICES FOR
CONSULTANTS**

NOTE: The term "minority" refers to the following groups: American Indian or Alaskan Native, Asian or Pacific Islander, African-American, Filipino, and Hispanic.

(Please answer all questions. Use additional sheets if necessary.)

Name of Company: _____

Address: _____

Location of Company Workforce (Check one):

_____ San Francisco

_____ Other Location, provide address:

-
1. Name, title, telephone number of company official at the establishment who is responsible for recruitment and hiring and who will provide information concerning this matter.

 2. Name, title, and telephone number of senior managing official at the establishment if not the person named in the answer to Question 1.

 3. Describe briefly the basic business activity at the establishment (i.e., identify the product produced or the services performed.)

 4. Describe briefly how employees at various levels are hired (see Workforce Breakdown #8).
 - A. Technicians and/or others.

 - B. Support Staff (accounting, reception, and clerical).

5. Describe in full, Nondiscrimination programs in the past two years.
 - Participation in training programs.

 - Participation in apprenticeship programs.

 - Participation in any summer hire program or own program.

 - Paid educational leave or tuition to improve skills and level.

 - Participation in scholarship fund.

 - Participation in clerical training programs.

 - Participation in "other" programs.

6. If minorities and/or women are underutilized explain steps to ensure the firm is not discriminating.

7. Describe joint ventures or subconsulting arrangements in past projects. If there is a company policy on this issue, include it.

8. Complete workforce breakdown. (Complete Spreadsheet #1 below, Page 5.)

- 8a. Hires in last 12 months. (Complete Spreadsheet #2 below, Page 6.)

**SFMTA FORM No. 3
Workforce Data SPREADSHEET #1**

8. Please fill out this workforce breakdown

Name of firm: _____
Address: _____

EMPLOYEE * CATEGORIES	TOTAL EMPLOYEE		AFRICAN AMERICAN		HISPANIC		ASIAN/ PAC. ISL.		AMER. IND./ ALAK. NTV.		TOTAL MINORITY		PERCENTAGE WHITE		PERCENTAGE MINORITY	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Officials																
Managers																
Professionals																
Technicians																
Admin. Support																
Trainees																
Others																
Full-time																
Part-time																
TOTAL																

3/30/95

COMPLETED BY Name: _____ Title: _____ Date: _____

* If the list of occupations on the left side of the workforce data form does not match your occupation titles, please modify the data form to indicate occupations peculiar to your organization.

**SFMTA FORM No. 3
WORKFORCE DATA SPREADSHEET #2**

8a. Hires in last 12 months

Name of firm: _____

Address: _____

EMPLOYEE CATEGORIES	TOTAL EMPLOYEE		AFRICAN AMERICAN		HISPANIC		ASIAN/ PAC. ISL.		AMER. IND./ ALAK. NTV.		TOTAL MINORITY		PERCENTAGE WHITE		PERCENTAGE MINORITY	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Officials																
Managers																
Professionals																
Technicians																
Admin. Support																
Trainees																
Others																
Full-time																
Part-time																
TOTAL																

3/30/95

COMPLETED BY Name: _____ Title: _____ Date: _____

* If the list of occupations on the left side of the workforce data form does not match your occupation titles, please modify the data form to indicate occupations peculiar to your organization

Appendix B Standard Forms

The requirements described in this Appendix are separate from those described in Appendix A.

Before the City can award any contract to a contractor, that contractor must file three standard City forms (items 1-3 on the chart). Because many contractors have already completed these forms, and because some informational forms are rarely revised, the City has not included them in the RFP package. Instead, this Appendix describes the forms, where to find them on the Internet (see bottom of page 2), and where to file them. If a contractor cannot get the documents off the Internet, the contractor should call (415) 554-6248 or e-mail Purchasing (purchasing@sfgov.org) and Purchasing will fax, mail or e-mail them to the contractor.

If a contractor has already filled out items 1-3 (see note under item 3) on the chart, **the contractor should not do so again unless the contractor's answers have changed.** To find out whether these forms have been submitted, the contractor should call Vendor File Support in the Controller's Office at (415) 554-6702.

If a contractor would like to apply to be certified as a local business enterprise, it must submit item 4. To find out about item 4 and certification, the contractor should call the Contract Monitoring Division at (415) 581-2310.

Item	Form name and Internet location	Form	Description	Return the form to; For more info.
1.	Request for Taxpayer Identification Number and Certification www.sfgov.org/oca/purchasing/forms.htm www.irs.gov/pub/irs-fill/fw9.pdf	W-9	The City needs the contractor's taxpayer ID number on this form. If a contractor has already done business with the City, this form is not necessary because the City already has the number.	Controller's Office Vendor File Support City Hall, Room 484 San Francisco, CA 94102 (415) 554-6702
2.	Business Tax Declaration www.sfgov.org/oca/purchasing/forms.htm	P-25	All contractors must sign this form to determine if they must register with the Tax Collector, even if not located in San Francisco. All businesses that qualify as "conducting business in San Francisco" must register with the Tax Collector.	Controller's Office Vendor File Support City Hall, Room 484 San Francisco, CA 94102 (415) 554-6702

Item	Form name and Internet location	Form	Description	Return the form to; For more info.
3.	S.F. Administrative Code Chapters 12B & 12C Declaration: Nondiscrimination in Contracts and Benefits www.sfgov.org/oca/purchasing/forms.htm – In Vendor Profile Application	HRC-12B-101	Contractors tell the City if their personnel policies meet the City’s requirements for nondiscrimination against protected classes of people, and in the provision of benefits between employees with spouses and employees with domestic partners. Form submission is not complete if it does not include the additional documentation asked for on the form. Other forms may be required, depending on the answers on this form. Contract-by-Contract Compliance status vendors must fill out an additional form for each contract.	Contract Monitoring Division 30 Van Ness, Suite 200 San Francisco, CA 94102 (415) 581-2310
4.	CMD LBE Certification Application www.sfgov.org/oca/purchasing/forms.htm – In Vendor Profile Application		Local businesses complete this form to be certified by CMD as LBEs. Certified LBEs receive a bid discount pursuant to Chapter 14B when bidding on City contracts. To receive the bid discount, you must be certified by CMD by the proposal due date.	Contract Monitoring Division 30 Van Ness, Suite 200 San Francisco, CA 94102 (415) 581-2310

Where the forms are on the Internet

Office of Contract Administration

Homepage: www.sfgov.org/oca/

Purchasing forms: Click on “Required Vendor Forms” under the “Information for Vendors and Contractors” banner.

City Administrator’s Contract Monitoring Division

Homepage: www.sfgsa.org
Click on “Departments, Divisions, Offices” on the left side, then click on “Contract Monitoring Division” in the middle of the page

Equal Benefits forms: Click on “Important Forms and Documents” under the “Equal Benefits Compliance (12B)” header.

LBE certification form: Click on “Forms and Attachments for Prime Bidding on City Contracts” under the “LBE Certification and Compliance” header.

Appendix C – 1 Transit Vehicles

Approximate total fleet count: 1,055 vehicles:

Distributed among 5 distinct vehicle types:

1. 525 Motor Buses
2. 301 Trolley Buses
3. 149 Light Rail Vehicles
4. 40 Cable Cars
5. 40 Historic Streetcars

These numbers are subject to change.

Transit Vehicle advertising opportunities include, but are not limited to, the following options:

- Interior and Exterior panel advertising (all exterior sides, including the roof)





- Wholly and partially covered vehicles (not windows)





- Advertising on the floor, seats and window stickers





- **Window and Door Panels**



- **Hangers/Grabbers**



Appendix C – 2 Parking Garages

Inventory consists of the following:

19 facilities: Approximately 5,403,943 square feet (includes commercial space); 13,562 Stalls

	PARKING GARAGES	Addresses	# Stalls	Approx. Square Feet
1	GOLDEN GATEWAY	250 Clay Street, 94111	1,095	226,800
2	LOMBARD STREET	2055 Lombard Street, 94123	205	85,260 (parking) plus 14,437 (commercial)
3	MISSION - BARTLETT	3255 21st Street, 94110	350	113,759
4	MOSCONE CENTER	255 Third Street, 94103	732	255,444 (parking) plus 4,317 (commercial)
5	NORTH BEACH	735 Vallejo Street, 94133	203	82,402 (parking)
6	PERFORMING ARTS	360 Grove Street, 94102	598	213,564 (parking) plus 4,836 (commercial)
7	POLK - BUSH	1399 Bush Street, 94109	129	73,860 (parking) plus 3,700 (commercial)
8	S.F. GENERAL HOSPITAL	2500 24th Street, 94110	807 (Garage) plus 850 (Lots)	480,000 (garage)
9	FIFTH & MISSION	833 Mission Street, 94103	2585	990,000 (parking) plus 26,000 (commercial)
10	VALLEJO STREET	766 Vallejo Street, 94133	163	70,760
11	PIERCE STREET	3252 Pierce Street, 94123	116	38,150
12	20 HOFF STREET	20 Hoff Street, 94103	98	17,284
13	SUTTER-STOCKTON	444 Sutter Street, 94108	1865	745,000 (parking) plus 30,000 (commercial)
14	JAPAN CENTER	1610 Geary Boulevard, 94115	920	352,100 (parking) plus 1,799 (commercial)
15	ELLIS & O'FARRELL	123 O'Farrell Street, 94108	950	314,549 (parking) plus 10,978 (commercial)

The following include parking garages under Recreation and Park Department jurisdiction but managed by the SFMTA Parking Authority, and are included as part of the collective advertising inventory:

	PARKING GARAGES ADDRESSES		# Stalls	Approx. Square Feet
16	UNION SQUARE	333 Post Street, 94108	985	423,780 (parking) plus 220 (commercial)
17	PORTSMOUTH SQUARE	733 Kearny Street, 94108	504	223,000
18	CIVIC CENTER PLAZA	355 McAllister Street, 94102	843	355,674
19	ST. MARY'S SQUARE	433 Kearny Street, 94108	414	245,445 (parking) plus 825 (commercial)

Advertising opportunities include but are not limited to the following:

- Gate Arm Advertising (must be inside the parking garage)



- Wall Advertising



- Full Elevator Wraps



- Ramp Way Advertising



- **Stairway Advertising**



- **Stairway Advertising Panels**



- **Pedestrian Motion Panel Advertising**



- Landmarks: large back-lit displays feature in prominent headwall sites located in parking facilities



- Facility Back Light Panels in Walkways



- Planter Boxes



- **Parking Concourse Concept Walls (multi-sticker walls)**



- **Elevator Video Screen Advertising**



- **Escalator Advertising**



- **Digital Video Screens at Central Cashiers Locations**



- **Parking Facility Concourse Floor Advertising**



- **Print billboards & Creative Walls Wraps**



Appendix C – 3 Tunnel and Facilities

Twin Peaks Tunnel and SFMTA Facilities – Other Advertising Opportunities

Muni Facility	Location	Est. Size (sq. ft.)
Twin Peaks Tunnel	Tunnel egress between Twin Peaks and West Portal stations	Approx. 1 mile
Kirkland Division	Block bounded by Stockton, Powell, Bay, North Point	113,437
Woods Division	22 nd and Indiana Streets	361,953
Flynn Division	15 th and Harrison Streets	268,872
Islais Creek Division	Cesar Chavez and Indiana Streets	(~8.3 acres)
Potrero Division	Mariposa between Bryant and Hampshire Streets	192,000
Presidio Division	Geary Blvd at Presidio Avenue	235,550
Green Division	San Jose Ave between Geneva & Ocean Aves	334,802
Green Annex	425 Geneva Avenue	See Green Division
Cameron Beach Yard and Shop	Southeast corner of Geneva & San Jose Avenues	121,968
Cable Car Barn	120 Mason Street, at Washington St.	39,646
Metro East	25 th and Illinois Streets	~13 acres
Central Control	171 Lenox Way	Beneath West Portal Playground
Scott Division	Harrison Street between 15 th & Alameda Streets	31,115
Overhead Lines Facility	1401 Bryant Street	48,000
Power Control Center	2502 Alameda Street	
700 Pennsylvania	Pennsylvania Ave at 22 nd Street	88,470
Burke Avenue Facility	1570-1580 Burke Avenue	103,231
T-Line Substation	Keith Street & LeConte Ave.	48,816

Appendix C – 4 Fare and Parking Media

(Print advertising located on the backs of the following fare and parking media)

1. Cable Car Tickets
2. Passports
3. Parking Tickets
4. Residential Parking Permits



Appendix C – 5

Other Advertising Opportunities

- **Travolator (Central Subway)**



- **Station Domination (Central Subway) or Parking Facility Domination – Includes platforms, travolators, etc.**



- **Platform Deck Entry-Way (Central Subway)**



- Facility Light-Boxes in Central Subway and Parking Facility Walkways



- Pillar Stickers (Central Subway)



- **Media Platform Vending Machines**



- **Station/Facility Bulkheads (Central Subway)**



- **Ticket Gateways (Central Subway)**



- **Station Benches**



- **Other non-revenue SFMTA vehicles**
- **SFMTA indoor sales locations, including ticket booths and SFMTA Customer Service Center**

Appendix D-1

Transit Shelter Advertising Agreement

The structures covered by the Transit Shelter Agreement include all infrastructure and facilities required to be constructed, installed or maintained pursuant to the Transit Shelter Advertising Agreement including, but not limited to, Shelters, Kiosks, Boarding Platforms, Signal Control Covers, Transit Stop Poles, and, if required to be installed, Station Canopies (all as defined in the Transit Shelter Advertising Agreement).

Appendix D-2

SFMTA Advertising Policy

**[To be added after consideration by
SFMTA Board of Directors on October 15, 2013]**

Appendix D-3

**SFMTA's First Supplemental Muni/BART
Joint Station Maintenance Agreement
dated July 1, 1986
with the San Francisco Bay Area Rapid Transit District (BART)**

and

**Professional Services Agreement dated as of June 12, 2008 between
BART and Titan Outdoor LLC**

**These agreements are not attached but a copy of each is available through
SFMTA's RFP contact person, Julian Sutherland**

Appendix E
Contract Terms and Conditions

AGREEMENT BETWEEN
THE CITY AND COUNTY OF SAN FRANCISCO
AND
[insert name of contractor]

**FOR ADVERTISING ON SAN FRANCISCO MUNICIPAL
TRANSPORTATION AGENCY VEHICLES AND OTHER PROPERTY**

Contract No. SFMTA 2014-13

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**City and County of San Francisco
Municipal Transportation Agency
1 South Van Ness Avenue
San Francisco, California 94103-1267**

Agreement between the City and County of San Francisco and [name of contractor]

SFMTA 2014-13

This Agreement is made this _____ day of June, 2014, in the City and County of San Francisco, State of California, by and between [**insert name of contractor**] (“Contractor”) and the City and County of San Francisco, a municipal corporation (“City”), acting by and through its Municipal Transportation Agency (“SFMTA”).

Recitals

- A.** The SFMTA wishes to grant certain advertising rights on SFMTA properties.
- B.** A Request for Proposals (“RFP”) was issued on October 16, 2013, and City selected Contractor as the highest-ranked proposer pursuant to the RFP.
- C.** Contractor represents and warrants that it is qualified to perform the services required by City as set forth under this Contract.

Now, THEREFORE, the parties agree as follows:

1. DEFINITIONS.

- 1.1. Advertisement.** Any combination of numerals, letters, words, models, banners, emblems, insignia, symbols, devices, lights, trademarks, service marks, sounds, textures, odors or other perceptible representation intended to call attention to any person, firm, group, organization, place, commodity, product, service, business, profession, enterprise or industry.
- 1.2. Advertising Campaign.** A series of Advertisements that share a single idea and theme and are placed on numerous Vehicles or other Advertising Space for a limited period of time.
- 1.3. Advertising Contract.** A contract between Contractor and its advertisers, clients, customers or agents to display or distribute Advertisements on Advertising Space.
- 1.4. Advertising Space.** Any surface or portion thereof of SFMTA Property that is subject to this Agreement and is approved by SFMTA for the placement of Advertisements.
- 1.5. Agreement.** This contract, all referenced Exhibits and Appendices to this contract, the RFP and the Proposal, in that order of precedence, all of which are incorporated by reference in this Agreement as though fully set forth.
- 1.6. Annual Financial Report.** The report required to be submitted under Section 9.1.
- 1.7. Annual Revenue Share.** The amount payable to SFMTA as determined by applying the revenue share percentage listed in Table 8.1.3 to the Net Revenues for the previous Fiscal Year.

1.8. Barter; Trade. A sale of Advertising Space by Contractor in which the consideration received is all or partially in products or services.

1.9. Calendar Year. The period of time beginning January 1 and ending December 31 of a particular year.

1.10. City. The City and County of San Francisco, a municipal corporation.

1.11. Consumer Price Index, Bay Area CPI. Consumer Price Index distributed by the Bureau of Labor Statistics for the Consolidated Metropolitan Statistical Area covering San Francisco - Oakland - San Jose, effective April 1 of each year.

1.12. Contractor. _____ and its successors in interest.

1.13. Contract Year. The period of time beginning July 1 and ending June 30 of a particular year.

1.14. Days. Unless otherwise specified, all references to the term "Days" refer to calendar days.

1.15. Digital Infrastructure Costs. All costs associated with the installation and fabrication of the digital displays and associated equipment, including but not limited to, all hardware and software costs, telecommunications costs (including wiring), digital system development costs, installation costs, initial electricity costs, flagging costs, if any, and the cost of financing.

1.16. Director. The Director of Transportation of the San Francisco Municipal Transportation Agency or his or her designee.

1.17. Effective Date. July 1, 2014.

1.18. Fare and Parking Media. Fare and parking media issued by the SFMTA, including transfers, passports, cable car tickets, parking tickets (excluding garage parking tickets) and residential parking permits, but not including Clipper® cards.

1.19. Fiscal Year. July 1 through June 30.

1.20. Graffiti. Any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" does not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

1.21. Gross Revenue. All amounts billed for the sale of Advertising Space to advertisers, including the cash value of any Barter or Trades, as reflected in Contractor's Advertising Contracts, without any deductions and without regard to actual amounts received from advertisers.

1.22. Historic Streetcars. Muni's historic trolley fleet as shown on the following website: <http://www.sfmta.com/cms/mfleet/histcars.php>

1.23. Infrastructure. All infrastructure required to be constructed, installed or maintained pursuant to this Agreement, including but not limited to advertising display frames, displays, racks, space frames, advertising boards, projection equipment or any device that is for the purpose of displaying Advertisements.

1.24. Local Business Enterprise. A business that is located in San Francisco and certified by the San Francisco Human Rights Commission (HRC) as an LBE by the proposal due date.

1.25. MAG; Minimum Annual Guarantee. The minimum annual guarantee payment required by Section 8.1.3 of the Agreement.

1.26. Monthly Payment. A payment made by Contractor to the SFMTA each month consisting of 65% of the Net Revenue for the preceding month, or the MAG, whichever is higher.

1.27. Municipal Railway; Muni. The public transit system in San Francisco under the jurisdiction of the SFMTA.

1.28. Net Revenue. Gross Revenue less actual costs for advertising agency commission, provided that no such commission shall exceed 16 2/3% of Gross Revenue.

1.29. Outage. Any period of time during which the IMS, required by Section 5, is not fully operational in accordance with the requirements of this Agreement or is not accessible to the SFMTA.

1.30. Party; Parties. The Parties to this Agreement are SFMTA and Contractor.

1.31. Proposal. The proposal submitted by Contractor in response to the City's Request for Proposals, dated [insert date].

1.32. Records. All documents created, received or maintained by Contractor in connection with performance under this Agreement, including, but not limited to, books, accounts, invoices, maintenance and service logs, database information, contracts, construction documents, payroll information, maintenance and service logs and other documents, whether or not kept in electronic format.

1.33. Request for Proposals, RFP. The Request for Proposals issued by the City on October 16, 2013, incorporated by reference as though fully set forth.

1.34. San Francisco Municipal Transportation Agency; SFMTA. The Municipal Transportation Agency, an agency of the City and County of San Francisco established by San Francisco Charter Article VIII A, or any successor agency.

1.35. SFMTA Property. Real or personal property under the jurisdiction or control of the SFMTA that the SFMTA may approve for advertising under this Agreement, including, but not limited to, Vehicles, parking garages, facilities, Transit Stations, and Fare and Parking Media.

1.36. Total Required Payments. The amounts that Contractor is required to pay to SFMTA pursuant to Section 8.1.1 through 8.1.4 of this Agreement.

1.37. Transit Stations. Muni subway stations and tunnels owned and operated by the SFMTA during the term of this Agreement including, but not limited to, the future Central Subway transit stations and tunnel, and the Twin Peaks tunnel.

1.38. Vehicles. Municipal Railway diesel buses, electric trolley buses, alternative fuel buses, Historic Streetcars, light rail vehicles, and cable cars used for public transit.

1.39. Wrap. An Advertisement covering an entire Vehicle, which may include windows.

2. TERM OF THE AGREEMENT

The term of this Agreement shall be from July 1, 2014 to June 30, 2019. At the sole option of City, the Agreement may be extended for up to two (2) five (5) year terms. City will notify Contractor of its intent to exercise an option no later than 90 Days prior to the expiration of the term of the Agreement (or the term of the Agreement plus the first five-year option, if exercised).

3. GRANT OF ADVERTISING RIGHTS AND PRIVILEGES; LIMITATIONS

3.1. Rights Granted. City grants to Contractor the exclusive right to place such advertising as may be authorized from time to time by City on and in Advertising Space subject to this Agreement. The rights granted by this Section 3 are subject to the condition that Contractor, in the exercise of the rights herein granted, will make best efforts to sell Advertising Space and time to advertising clients. City warrants and represents only that Contractor shall have the exclusive right to place such advertising as may be authorized under this Agreement; City does not warrant or represent that any particular level of advertising, or advertising on all available Advertising Spaces, will be permitted under this Agreement.

3.2. License Granted. In conjunction with the rights granted by this Section 3, and subject to all provisions of this Agreement and applicable law, the SFMTA grants to Contractor a license to install, maintain, repair or replace Infrastructure as necessary for the placement of advertising on Advertising Space subject to this Agreement, including Advertising Space in or on Vehicles, Transit Stations, buildings and facilities, and to access such properties for the purpose of installation, maintenance, repair or replacement of Advertisements or Infrastructure, subject to any access restrictions communicated to Contractor in writing by SFMTA.

3.3. Rights Retained. Contractor acknowledges that City intends to, and hereby does, retain and reserve all advertising rights that are not specifically granted by this Agreement, and that City may exercise such retained and reserved rights through a source other than Contractor. The rights retained and reserved by City include, but are not limited, to:

3.3.1. The right to place Advertisements on any SFMTA property that is not expressly made part of this Agreement;

3.3.2. The right to license or otherwise provide for the use of any trade name, trademark, or other identifying device or symbol used, owned, licensed or registered by City;

3.3.3. The right to display poster advertisements in Muni Metro stations, except for the rights granted herein to Contractor for the sale of transit information display advertising; provided, that nothing herein shall affect any rights Contractor has as a result of any prior contractual relationship with the Bay Area Rapid Transit District;

3.3.4. The right to install electronic information displays with advertising in the Muni Metro stations and at Muni cable car stops;

3.3.5. The right to grant concessionaires the authority to advertise in Muni Metro stations, and on or in items sold by them on such premises;

3.3.6. Exclusive of all Advertising Space approved under this Agreement, the right, at SFMTA's expense, to place on Vehicles and within transit stations and other structures related to its transit system, informative material, including,

but not limited to, timetables, “take-one” brochures, service notices, additional signs and other displays designed to encourage the use of its transit system. SFMTA reserves exclusive use of all 11” x 17” frames mounted on the rear-facing side of the bulkhead panel behind the operator’s position, and, in articulated Vehicles, two additional 11” x 17” frames located near the trailer portion of the Vehicle. SFMTA shall not sell such space to advertisers either directly or through any intermediary;

3.3.7. Advertising rights granted under the Transit Shelter Advertising Agreement, dated December 10, 2007, between the City and Clear Channel Outdoor, Inc.;

3.3.8. Naming rights/corporate sponsorships, including the future Central Subway transit stations and tunnel;

3.3.9. Bicycles and equipment related to any SFMTA bike-share program;

3.3.10. Information kiosks;

3.3.11. Transit information displays/signage;

3.3.12. Technology-related property such as the SFMTA website and smartphone applications.

3.3.13. Right of first refusal for purchase of Advertising Space by the National Football League as agreed to by the City in its Super Bowl bid.

3.4. Authorized Advertising. In accordance with the exclusive advertising rights granted in this Section 3, City authorizes advertising as set forth below and in Section 4.

3.4.1. Vehicle Advertising. SFMTA initially authorizes Contractor to use the spaces on the Vehicles listed in Appendix A for Vehicle advertising, subject to change in the sole and exclusive discretion of Director. The City reserves the right to negotiate with the Contractor the use of other vehicles for advertising at a future date.

(a) Vehicle Count and Description. For Vehicle advertising, subject to change in the sole and exclusive discretion of Director, City initially authorizes Contractor to use the spaces on the Vehicles listed in Appendix A. The City reserves the right to negotiate with the Contractor for the use of other vehicles for advertising at a future date. SFMTA will provide to Contractor a “Fleet Inventory Report” at the inception of this Agreement and on or about the first day of the month following the increase or decrease of Vehicle fleet by 200 Vehicles or more. If new Vehicles are added, the revenue generated from Advertising Spaces on such Vehicles shall be credited towards fulfilling the MAG and included in the Annual Revenue Share.

(b) Wraps. Contractor may apply Wraps to all Vehicles except Historic Streetcars and cable cars; provided, however, that Contractor may only apply Wraps as follows:

(i) Wraps that include windows may be applied to no more than [insert number] Vehicles;

(ii) Overall, Wraps may be applied to no more than 20 percent of all authorized Vehicles at any one time (Wraps that include windows and Wraps that do not include windows).

Wraps may not cover Vehicle numbers or SFMTA insignia. All Wraps are subject to policies adopted by the SFMTA Board of Directors regarding Wrap advertising. Wrap Advertisements shall not damage the Vehicles, their paint schemes or decal applications. To the extent feasible,

Contractor will apply Wraps to older Vehicles before newer Vehicles. Contractor shall reimburse City for any damage to Vehicles by reason of the application of any Wraps. Wrap materials must be in perforation patterns that are not more than 50% vinyl/material and not less than 50% uncovered space in order to provide sufficient light transmission into and out of Vehicles and must use the most technologically advanced materials available including, for windows covered or partially covered, the most transparent materials available.

(c) **Guaranteed Space on Vehicles.** In each contract month, SFMTA shall have the right to the exclusive use of no more than 15 percent of Advertising Spaces on the exterior of Vehicles. SFMTA retains the right to use all interior Advertising Space on each Vehicle unless Contractor notifies the SFMTA, at least 30 Days in advance, that it has sold the interior Advertising Space. Contractor shall install, maintain and remove interior Advertisements for the SFMTA free of charge.

3.4.2. Transit Stations. Contractor may advertise in Transit Stations subject to the prior approval of the Director. At least 90 Days prior to any advertising in Transit Stations, Contractor shall present an advertising plan to the SFMTA, setting forth the Contractor's proposal for advertising within Transit Stations (e.g., locations and size/shape/style of advertisements, schedules for advertising campaigns, installations). The City, in its sole discretion, may add to the Agreement the implementation of an advertising program in the new Central Subway stations and tunnel after their completion. This advertising program will result in additional MAG amounts to be paid to the SFMTA based upon sales to date, expected types of advertising in the new Central Subway stations and tunnels and expected revenues. The SFMTA and Contractor will negotiate the actual amounts to be added to the MAG over the remaining term of the contract near the time of the Central Subway project's completion and the beginning of revenue service, currently scheduled for 2019. Any agreement regarding such an addition to the MAG shall be reflected in an amendment to this Agreement, which will be subject to approval by the SFMTA Board of Directors and the San Francisco Board of Supervisors.

3.4.3. Fare and Parking Media. Contractor may advertise on the backs of Fare and Parking Media, subject to the prior approval of the Director.

3.4.4. Trades and Barter. Contractor may Barter or Trade Advertising Space and/or time on unsold Advertising Space under the following conditions:

(a) Contractor must secure the prior written approval of the Director for each Barter or Trade.

(b) Contractor is prohibited from receiving compensation for such transactions except as otherwise expressly authorized by this Agreement.

(c) Contractor shall report the value attributable to the Advertising Space subject to a Trade or Barter in the same manner as it reports actual Gross and Net Revenues. All such reported amounts shall be included in the calculation of the Annual Revenue Share. Contractor will ensure that the advertising value of all Barters and Trade be on a dollar-for-dollar basis, i.e., that the value of Barters or Trades Contractor receives will equal the cash value of Advertising Space Bartered or Traded.

(d) Contractor is prohibited from receiving any consideration or commission for any such Trade or Barter other than payments which are reported under Section 8 of this Agreement.

(e) SFMTA may actively solicit Trades, and Contractor shall cooperate with SFMTA in any such endeavor.

3.5. Unsold Space

3.5.1. City's Use of Unsold Space By the first day of each month, Contractor shall provide a projection of all unsold Advertising Space anticipated over the next 60 Days to SFMTA in an electronic format. Notwithstanding the provisions of Section 3 of this Agreement, the City has the first option to use, for a minimum of 14 Days, any Advertising Space, at no charge to the City and for any public purpose that has not been sold by Contractor. The City will be responsible for providing all printed posters ready for posting by Contractor. The SFMTA shall notify Contractor of the City's intention to use the unsold Advertising Space at least 30 Days prior to the date on which the City's use would begin. If Contractor is unable to deliver unsold Advertising Space for any reason after being notified of the City's intention to use unsold Advertising Space, and if the printed materials are time sensitive and cannot be reused, Contractor shall reimburse the City for all reasonable printing and design costs expended in anticipation of the City's use of that Advertising Space.

3.5.2. Contractor's Use of Unsold Space. To the extent that the City does not exercise its option to use unsold Advertising Space in accordance with Section 3.5.1, Contractor may use, at its sole cost and expense, available unsold Advertising Space: (a) for its own advertisements and promotion designed to increase the sale of Advertising Space; or (b) to display public service announcements provided by non-profit public, educational, and charitable organizations; or (c) for Trade and Barter as permitted under Section 3.4.4 of this Agreement.

3.5.3. Public Service Announcements. Contractor shall have the right, at its own discretion, to display certain public, educational, charitable and editorial displays free of charge or at reduced rates in any Advertising Spaces not contracted for use by paid advertisers and not being used by the SFMTA or Contractor pursuant to this Section 3. In the event that Contractor collects revenues hereunder solely to cover direct costs for labor and materials for carding, installation, maintenance, and removal of such displays, such amounts shall not be included in the Gross Revenues used to compute the Annual Revenue Share. Such freely donated or discounted advertising shall not, however, reduce the MAG payments hereunder.

3.6. Bonuses; Discounts; Allowances. No Advertising Space or time bonus, discount or allowance (from the amounts published in Contractor's then current Schedule of Rates and Charges as referenced in Section 9.9) shall be permitted without the prior written approval of the Director unless all the following conditions are met:

3.6.1. The transaction must result in a direct financial benefit to SFMTA, and may not relate in any way to the sale of advertising on or with other transit systems or properties;

3.6.2. Each such space or time bonus, discount or allowance, together with the term and/or schedule of display, shall be clearly itemized with appropriate footnotes in Contractor's Advertising Contracts or on an equivalent form reasonably approved by the Director.

3.6.3. Contractor is prohibited from receiving any consideration or commission for any bonus, discount or allowance other than payments which are reported under Section 9 of this Agreement.

3.7. Advertising Space Subject to Change. Contractor acknowledges and agrees that the available Advertising Space may vary from time to time for various reasons.

3.8. Transportation Priority. Contractor acknowledges and agrees that advertising, and the grant of advertising rights provided for in this Agreement, are incidental to the SFMTA's transportation business, which may undergo changes affecting the advertising rights granted. SFMTA will have no liability to Contractor for any change in its routes, in the number of Vehicles operated by it, in ridership, or for any other change affecting the level or scope of advertising authorized by SFMTA.

3.9. Partial Termination. The SFMTA may partially terminate the rights to any category of Advertising Space (other than on Vehicles) granted to Contractor pursuant to this Agreement upon which no Advertisement has been displayed for a period of 60 Days once advertising has commenced on such Advertising Space. Such partial termination shall require 60 Days' written notice by SFMTA, during which time Contractor may avoid partial termination by demonstrating to SFMTA with appropriate documents either (a) that it has sold Advertisements on the subject Advertising Space prior to the date of SFMTA's notice of partial termination, or (b) that it intends to continue advertising on such Advertising Space but has been unable to sell advertising on the Advertising Space after reasonable attempts to do so.

3.10. Use of Advertising Space. Contractor may not use Advertising Space for any purpose other than those expressly provided in this Agreement.

3.11. No Damage to City Property. Contractor and its subcontractors may not damage City property. The use of exterior advertising display frames or similar hardware and adhesive decals such as "Control-TAC" or its equivalent shall not damage the paint schemes or decal applications of Vehicles, or any surface of any Advertising Space. If in the course of its activities under the Agreement Contractor or any of its employees or subcontractors damages any property belonging to City, Contractor shall compensate the City for the full extent of its losses resulting from the damage. At City's option, City may require Contractor to repair any such damage.

3.12. Nuisances. Contractor shall conduct its activities under this Agreement in a manner that does not constitute waste, nuisance or unreasonable annoyance (including, without limitation, emission of objectionable odors, noises or lights) to City, or to the public.

4. PARKING GARAGES.

4.1. Approvals Required. The Director must approve all Advertising Space locations in parking garages under the jurisdiction of the SFMTA and the Parking Authority. For those parking garages under the jurisdiction of the Recreation and Park Commission, the Recreation and Park Department must also approve the location of Advertising Space. Contractor shall assist the SFMTA in obtaining the consent of garage operators that may be required to place advertising in certain garages.

4.2. Advertising Plan. At least 30 Days prior to any new planned advertising in parking garages, Contractor shall submit a proposed plan for review and approval by the Director. The plan shall contain the Contractor's proposals for Advertising Space locations within each garage, the results of outreach and meetings with garage operators, proposed schedules for advertising placement in each garage, and contact information. The plan must demonstrate that the Contractor is knowledgeable about and has satisfactorily addressed the operating needs and concerns of garage operators. Space shall be reserved for advertisements or signs by businesses located in the garage or for community information. After the plan is finally approved as required under Section 4.1, Contractor need not obtain any further approvals unless the Contractor or SFMTA wish to make a material change to the plan.

5. INVENTORY MANAGEMENT SYSTEM (IMS).

5.1. General. Contractor shall create and maintain throughout the term of the Agreement an Inventory Management System (IMS), as set forth in further detail below, for documenting the location(s) of Advertisements and Advertising Campaigns on Advertising Space.

5.2. IMS Review and Approval. Within 60 Days after the Effective Date, Contractor shall submit for SFMTA approval complete documentation of its proposed IMS, including the database structure and fields, the reports available from the system, disaster planning information required by Section 5.5, and the end-user interface and access as it will be available to SFMTA staff. Within 60 Days after SFMTA approval, Contractor shall implement the system with full functionality in accordance with the approved IMS design.

5.3. Inventory Records. Contractor shall enter into the database, on a daily basis, the Advertising Space, by Vehicle number or other location, the subject matter of the Advertisement or Advertising Campaign; and a sample of each Advertisement that is part of a particular Advertising Campaign. In addition, the database shall contain detail on which Advertisement is posted on each Advertising Space.

5.4. Technical Requirements.

5.4.1. Application Requirements. The data on the IMS must be available to designated SFMTA staff through the internet 24 hours a day. All reports from the IMS shall be available for downloading by SFMTA staff in an open architecture format, such as .xls, .csv, .txt, or .xml format.

5.4.2. IMS Maintenance and Upgrades. Contractor shall backup the IMS system every weekday but shall not conduct any backup or maintenance activities between the hours of 8 a.m. and 8 p.m. Pacific Time, weekdays. Contractor and SFMTA shall meet on an annual basis to review and discuss enhancements to the IMS. Contractor shall obtain written approval from the Director before making any modifications to the IMS that affect the use of the IMS by the SFMTA.

5.4.3. Security. Contractor shall ensure that all information in the IMS is secure and that no other entity will have access to information required to be provided under this Agreement without written authorization from the Director. Contractor shall provide to SFMTA username(s) and password(s) for secure access to the IMS. Contractor shall replace and/or block any username(s) and password(s) if requested by SFMTA within four hours. Contractor shall provide any new requested username(s) and passwords within two Days. There shall be no limit to the number of username(s) and password(s).

5.4.4. Outages. Contractor shall document any Outages and shall provide a monthly report documenting all Outages no later than the fifth day of each calendar month. In no case shall the IMS be less than fully operational for a total of more than 240 minutes in any calendar month.

5.5. Disaster Planning. Contractor shall use disaster planning best practices to ensure that IMS data can be recovered within a reasonable period of time after a disaster affecting IMS utilization. Contractor shall submit a copy of its disaster planning protocol to the SFMTA in connection with the approval of the database under Section 5.2.

6. OWNERSHIP, INSTALLATION AND MAINTENANCE

6.1. Installation and Ownership Rights. Contractor, at its own expense, shall:

6.1.1. Furnish all new Infrastructure of the size currently in use, or of a size and type as may be agreed upon by SFMTA and Contractor, as is required either to replace presently existing Infrastructure, to add to the existing Infrastructure or to construct new Infrastructure in new locations. Contractor shall reimburse City for any such Infrastructure installed at City's expense by a factory supplier of new or rebuilt

vehicles or other supplier. Contractor acknowledges and agrees that City owns and has full title to any and all Infrastructure including, but not limited to, that which is now or hereafter affixed to any Vehicle or any other SFMTA property subject to this Agreement. Notwithstanding anything to the contrary hereto, all digital signs shall remain the property of the Contractor until the expiration of this Agreement, at which time ownership of the signs shall vest in the SFMTA.

6.1.2. Place all Advertisements in a clean, safe, and first-class condition, and shall maintain or replace Advertisements as needed.

6.1.3. Erect all Infrastructure and insert all Advertisements in accordance with any schedule approved by SFMTA, or if no schedule is approved, whenever possible at hours of minimum passenger, visitor and employee activity within SFMTA facilities. Contractor may only install Advertisements in or on Vehicles when they are not in use.

6.2. Maintenance. Contractor shall continuously maintain Infrastructure in a clean, safe, and first-class condition during the entire term of this Agreement, and shall maintain or replace all Infrastructure as needed.

6.3. Inspection and Clean-up. Contractor must inspect each Advertisement at least once per week. Contractor shall make more frequent inspections if conditions warrant. In the course of each inspection of an Advertisement, Contractor shall remove all Graffiti, stickers, posters, dust and dirt from each Advertisement.

6.4. Repair. Within 24 hours of notification by the City, SFMTA staff or discovery by Contractor, Contractor shall repair any damage, including, but not limited to, damage from vandalism or Graffiti, found on any Advertisement or advertising Infrastructure. Contractor shall repair, replace or remove, as appropriate, any damage to an Advertisement or Infrastructure that is of a hazardous nature, including but not limited to broken glass or protruding edges, within 24 hours of notification to or discovery by Contractor.

6.5. Removal of Advertisements. Contractor agrees to remove Advertisements as expeditiously as practical after the expiration of each Advertising Contract, and in no event later than 30 Days after expiration of any such Advertising Contract, so that no continuation or over-posting of such Advertising Contract results in any loss of revenues to be generated under this Agreement. Dated advertisements shall be removed within five days after expiration of the Advertising Contract.

6.6. Maintenance Plan. Contractor shall perform maintenance in accordance with the standards of this Agreement and the terms of the maintenance and installation plan attached as Appendix B.

6.7. Maintenance Products. To the maximum extent feasible, Contractor shall use maintenance products that present the least potential threat to human health and the City's natural systems. The City's approved "green" product list may be obtained at the following website: http://www.sfenvironment.org/our_programs/topics.html?ssi=9&ti=22.

6.8. Remedies for Failure to Maintain or Repair. In the event that Contractor fails to repair or maintain Advertisements within the time specified by SFMTA, SFMTA may, in its sole discretion, upon five Days written notice to Contractor, cause the repair or maintenance of said Advertisements or Infrastructure. Contractor shall pay SFMTA for its actual costs, including overhead costs, within 10 Days following receipt by Contractor of an invoice.

6.9. Meetings. Contractor's upper level management personnel shall be available to meet with the SFMTA in San Francisco semi-annually for the purpose of reviewing Contractor's performance under this Agreement, including the success of its advertising sales program. Contractor's operations personnel shall be available to meet in person or by telephone with SFMTA staff monthly (or more often, at the request of the SFMTA) to discuss operational issues.

6.10. Permits. Contractor shall be responsible for obtaining any permits that may be required in connection with installation of any Advertising under this Agreement.

7. CONTENT OF ADVERTISEMENTS

7.1. Advertising Policy. The SFMTA Board of Directors has adopted an Advertising Policy that prohibits certain types of advertisements. See Appendix C. The Contractor agrees to comply with the advertising standards set forth in this policy. The SFMTA Board of Directors may unilaterally amend the Policy, and SFMTA will provide to Contractor notice of any such amendments. Contractor is permitted to display only those Advertisements that are in compliance with SFMTA's Policy. Upon written demand by the Director, Contractor agrees to promptly remove any Advertisements that are in violation of SFMTA's Policy to the extent permitted by state or federal law.

7.2. Disclaimers. Contractor shall install a decal on each Advertisement or associated Infrastructure that reads: "The views expressed in any advertisement do not necessarily reflect the views of the Municipal Transportation Agency." Contractor shall provide the decals and SFMTA will determine the locations on the Advertising Space where Contractor shall place the decals.

7.3. Complaints. Contractor shall provide and install a decal on each Advertisement or associated Infrastructure indicating that a member of the public may dial 3-1-1 to report any complaint about the physical condition of the Advertisement. The design of the decal and the location of the decal on the Advertisement will be subject to the prior approval of the SFMTA. Current decals shall be replaced as needed to ensure accuracy and readability.

7.4. Design Considerations and Use of Materials

7.4.1. General Considerations. It is the intent of both SFMTA and Contractor to provide an advertising program that is effective and aesthetically pleasing and that will be beneficial to both Parties. The parties accordingly agree (A) to maintain throughout the term of this Agreement a continual liaison and exchange of plans and information to assure the successful implementation of the Agreement, and (B) to use materials and technology presently available or subsequently developed for all exterior and interior Advertisements that will enhance the appearance and image of SFMTA Vehicles, transit system and facilities and that will not detract from the transit system's color scheme and logo or damage the surface of Advertising Spaces, including the Vehicles' paint scheme or decal applications. SFMTA shall have the right to determine the number, type, and method of attachment and location of all advertising Infrastructure. Contractor shall also use, to the maximum extent feasible, the most sustainable technology and materials.

7.4.2. Experimental Displays; New Media. Contractor may experiment with new advertising materials, media formats, displays and designs. SFMTA and Contractor shall coordinate on the type and extent of such experimental projects, and their schedule and term; provided, however, Contractor shall not proceed with such experimental projects until authorized by SFMTA. During the term of these projects, the sales and inventory value of such experimental displays shall not be used to recalculate the MAG, unless and until the SFMTA authorizes any such display on a non-experimental

basis. Revenue from these displays may, however, be used as a credit towards meeting the MAG and shall be included in the calculation of Annual Revenue Share.

7.4.3. Digital Displays. Digital advertising displays are permitted on Vehicles and in Transit Stations subject to the following:

(a) Limitations. Contractor shall limit digital advertising to no more than 20 percent of Vehicles at any one time; and Contractor may not include digital advertising on Historic Streetcars and cable cars. Digital advertising must be capable of being overridden when the SFMTA determines that such Infrastructure must be used for emergency signage.

(b) Rollout Plan. Not later than 60 days prior to any planned placement of digital advertising displays on Vehicles or in Transit Stations, Contractor shall submit a rollout plan to the SFMTA for approval. The rollout plan shall set forth the types, locations, and duration of such displays, the Infrastructure costs, and projected advertising revenue. Contractor shall include a pro forma spreadsheet showing how long it will take to recoup its capital costs from advertising revenues based on the revenue share allocation in subsection (c) below. The SFMTA will have 30 days from submission of the rollout plan to review the rollout plan and either approve it, disapprove it, or submit any comments to Contractor.

(c) Revenue. Notwithstanding any provision of Section 7.4.2 or Section 8.1., Net Revenues from digital displays shall be allocated as follows: 75 percent of Net Revenues to Contractor and 25 percent of Net Revenues to the SFMTA until Contractor has recouped its Digital Infrastructure Costs for the digital displays, in accordance with the schedule in its rollout plan. Thereafter, the revenue allocation shall be allocated on a 50%/50% basis between Contractor and the SFMTA.

7.4.4. Cable Car Displays. All advertising on cable cars shall be in conformity with the character, style, and design of such Vehicles.

7.4.5. Historic Streetcars. No Advertisements may be placed on the outside of Historic Streetcars. All interior advertising on Historic Streetcars shall be in conformity with the character, style, and design of such Vehicles.

8. PAYMENTS

8.1. Payments by Contractor to SFMTA. During the term of this Agreement, Contractor shall pay to the SFMTA the amounts listed below, without any deduction or offset whatsoever. Contractor shall make payments electronically in accordance with wiring or other remittance instructions provided in writing by the SFMTA.

8.1.1. Administrative Payments. Not later than July 1 of each year, Contractor shall pay \$300,000 (“base rate”), as escalated each year by any increase in the percentage change in the Bay Area CPI.

8.1.2. Marketing Support. Not later than July 1 of each year, Contractor shall contribute \$300,000 (“base rate”) to the SFMTA marketing and community outreach program. The marketing support base rate shall be escalated each year by any increase in the percentage change in the Bay Area CPI.

8.1.3. Minimum Annual Guarantee (MAG). The MAG and the Annual Revenue Share for each Fiscal Year of the Agreement are set forth in Table 8.1.3 below.

Table 8.1.3: MAG Amount and Revenue Share Percentage

Fiscal Year	MAG	Revenue Share Percentage
2014-15		
2015-16		
2016-17		
2017-18		
2018-19		
2019-20*		
2020-21*		
2021-22*		
2022-23*		
2023-24*		
2024-25*		
2025-26*		
2026-27*		
2027-28*		
2028-29*		
Total		
*Assumes that the option(s) to extend the contract are exercised by the SFMTA		

8.1.4. Monthly Payment. On or before the 10th day of each month during each Fiscal Year, Contractor shall pay the SFMTA the Monthly Payment.

8.2. Late Payments. Payments from Contractor that are not paid when due will bear interest compounded daily from and after the date said payment was due until the date paid at the prime rate plus three percent. Acceptance of a late payment by SFMTA will not constitute a waiver of Contractor’s default with respect to the overdue amount, nor prevent SFMTA from exercising any of the other rights and remedies granted under this Agreement or by law. SFMTA shall have no responsibility to notify Contractor of payments not received by the due dates.

8.3. Verification of Revenue. In each Contract Year covered by this Agreement, a verification of sales and revenues reported to the SFMTA by Contractor shall be made by a certified public accounting firm selected by the SFMTA. The SFMTA may assign the verification function to the Audits Division of the San Francisco Controller's Office. The cost of such verification shall be shared equally by SFMTA and Contractor. Alternatively, Contractor, at its sole expense, may have its certified public accounting firm perform the verification function. If it is determined as a result of any such verification that there has been a deficiency in percentage payments as required by this Agreement, then such deficiency shall become immediately due and payable with interest at 10%, or the maximum lawful rate, whichever is higher, from the date when said payment should have been made. If Contractor's accounting reports for any contract month shall be found to have understated Net or Gross Revenues by more than 2% and the SFMTA is entitled to any additional percentage payment as a result of said understatement and said understatement is material and intentional, then Contractor shall pay, in addition to the interest charges above, all of the costs and expenses of such audit.

9. REPORTS, INSPECTION AND REVIEWS

9.1. Annual Financial Statement. On or before the first day of the third calendar month following the close of Contractor's fiscal year, Contractor shall submit to City three copies of Contractor's annual financial statement prepared by an independent public accountant.

9.2. Summary Report. On or before the first day of the third calendar month following the close of Contractor's fiscal year, Contractor shall submit to the SFMTA a Summary Report detailing total Advertisement sales, revenues, expenditures, documentation of Gross and Net Revenues and Total Required Payments for the previous Fiscal Year, and the number of Advertising Contracts by type of Advertising Space.

9.3. Annual Inspection of Records. By September 1 for the City's prior Fiscal Year, Contractor shall make available at its place of business in San Francisco or the surrounding area for inspection by City of the following information:

9.3.1. The total revenues, earnings before income tax, depreciation, amortization and profit from advertising operations, both on a cash and accrual basis.

9.3.2. Comparable financial statistics relating to Contractor's advertising contracts for transit vehicles with other public or transit agencies in the Bay Area or other large metropolitan areas.

9.4. Sales Activity Report. A "Sales Activity Report" on the form attached hereto as Appendix D, or an equivalent form approved by Director shall be prepared by Contractor and submitted to the Director on or before the 30th day of the following month.

9.5. Account Activity Summary by Display Location and Type. An "Account Activity Summary by Display Location and Type," on the form attached hereto as Appendix D, or an equivalent form approved by the Director, shall be prepared monthly by Contractor and submitted to the Director on or before the 20th day of the following month. This summary shall include the following:

9.5.1. Advertising by Category. A percentage allocation of Gross and Net Revenues by Contractor's top five categories of advertisements (e.g., fashion, automotive, media, and beverage) and three categories of advertising clients. The three client categories shall be (1) commercial/national accounts; (2) commercial/local accounts; and (3) other accounts. SFMTA may request new or additional categories during the term of this Agreement.

9.5.2. Bay Area-Wide Transit Contracts. If Contractor represents other transit properties in the San Francisco Bay Area (defined by the U.S. Bureau of Census as the San Francisco-Oakland and the San Jose Standard Metropolitan Statistical Areas), any Advertising Contract written for Bay Area-wide distribution and posting shall be identified as such on the face of such Advertising Contract. For all such Advertising Contracts, Contractor shall supply the SFMTA with the amount of total Gross Revenues, as well as the percentage of total Gross Revenues allocated to the SFMTA and the other transit properties.

9.6. Copies of Contracts. On or before the 20th day of each month, Contractor shall submit to SFMTA a copy of each Advertising Contract billed by the Contractor during the preceding month. On each such Contract, Contractor shall indicate the account type of each advertiser (*i.e.*, commercial-national; commercial-local; SFMTA/City; or non-profit public service announcement), and if the sale is for Bay Area-wide distribution, the allocation to SFMTA and the other Bay Area transit properties.

9.7. Maintenance and Service Logs. Contractor shall maintain accurate maintenance and service logs describing the dates and locations of all routine inspections conducted of Advertisements,

Infrastructure and Advertising Spaces as required by this Agreement, as well as the date, the location and the nature of any maintenance or service activity conducted by Contractor. If Contractor conducts the maintenance or service in response to a complaint by the public, the log shall include the date and the nature of the complaint to which the Contractor has responded. If requested by the SFMTA, Contractor shall provide copies of such maintenance and service logs in an electronic format.

9.8. Media Trade Reports. If implemented, Contractor shall supply SFMTA with quarterly reports of media trade transactions authorized by Section 3.4.4 showing:

9.8.1. the cumulative total of consideration received for Barter or Trades received by the SFMTA since contract inception through the end of the previous quarter;

9.8.2. a list of new Trade offers for the quarter, showing amounts accepted by the SFMTA.

9.9. Schedule of Rates and Charges. On or before the first business day of each Calendar Year, Contractor shall provide to SFMTA a complete "Schedule of Rates and Charges" for all advertising charges under this Agreement, together with a similar schedule of rates for any other San Francisco Bay Area transit system for which Contractor has a transit advertising agreement. Each such schedule shall include a range (minimum and maximum) of all standard rates and charges for each type of Advertising Space and time available for rental; all time and quantity purchase discounts; discounted rates and charges for civic, charitable, non-profit and public service organizations; all fees and direct costs for labor and materials for carding, installation, maintenance, and removal of advertising; and terms, conditions and manner of payment by advertisers. Contractor shall submit to the SFMTA, in writing, any changes in rates and charges during the Contract Year not later than 15 days from the effective date of such change. In the event of any dispute relating to rates and charges, such dispute shall be resolved by the Director, whose decision shall be final and conclusive, unless arbitrary and capricious.

9.10. Garage Revenue. No later than 30 Days after the end of each quarter, Contractor shall provide a report ("Garage Report") that identifies the portion of the MAG attributable to all parking garages ("Garage MAG"). In the Garage Report, Contractor shall also itemize the portion of the Garage MAG and the overall garage revenue attributable to each parking garage.

10. SECURITY DEPOSITS

10.1. Requirement to Provide Financial Guarantees. Upon the Effective Date of this Agreement, Contractor shall provide, and shall maintain for the time periods specified herein, financial instruments and funds described in this Section 10 as security to ensure Contractor's performance of all terms and conditions of this Agreement and to compensate for any damage to City property and/or other actual costs to City for Contractor's violation of the terms of this Agreement, as further described below.

10.2. Letter of Credit

10.2.1. Requirements. No later than June 15, 2014, Contractor shall provide to City and shall maintain, throughout the term of this Agreement and for 90 Days after the expiration or termination of this Agreement or the conclusion of all of Contractor's obligations under the Agreement, whichever occurs later, a confirmed, clean, irrevocable letter of credit in favor of the City and County of San Francisco, a municipal corporation, in the amount of the MAG. The letter of credit must have an original term of one year, with automatic renewals no later than July 1 of each Fiscal Year in the amount of the MAG for each Fiscal Year throughout the term of the Agreement, including any extensions. If Contractor fails to deliver the letter of credit as required, City may deem Contractor to be in default in the performance of its obligations hereunder. In such event,

City, in addition to all other available remedies, may terminate the Agreement. The letter of credit must provide that payment of its entire face amount, or any portion thereof, will be made to City upon presentation of a written demand to the bank signed by the Director of Transportation of the San Francisco Municipal Transportation Agency on behalf of the City and County of San Francisco.

10.2.2. Financial Institution. The letter of credit must be issued on a form and issued by a financial institution acceptable to the City in its sole discretion, which financial institution must (a) be a bank or trust company doing business and having an office in the City and County of San Francisco, (b) have a combined capital and surplus of at least \$25,000,000, and (c) be subject to supervision or examination by federal or state authority and with at least a Moody's A rating.

10.2.3. Demand on Letter of Credit. The letter of credit will constitute a security deposit guaranteeing faithful performance by Contractor of the following terms, covenants, and conditions of this Agreement, including all monetary obligations set forth in such terms: (a) failure to pay any of the Total Required Payments under Section 8.1; (b) failure to replenish the Security Fund under Section 10.3; and (c) termination of this Agreement due to the default of the Contractor, in which case the City shall be entitled to the full amount of the Letter of Credit. Under any of the above circumstances, SFMTA may make a demand under the letter of credit for all or any portion of the Letter of Credit to compensate City for any loss or damage that they may have incurred by reason of Contractor's default, negligence, breach or dishonesty; provided, however, that City will present its written demand to said bank for payment under said letter of credit only after City first has made its demand for payment directly to Contractor, and five full Days have elapsed without Contractor having made payment to City. Should the City terminate this Agreement due to a breach by Contractor, the City shall have the right to draw from the letter of credit those amounts necessary to pay any fees or other financial obligations under the Agreement and perform the services described in this Agreement until such time as the City procures another contractor and the agreement between the City and that contractor becomes effective. City need not terminate this Agreement in order to receive compensation for its damages. If any portion of the letter of credit is so used or applied by City, Contractor, within 10 business days after written demand by City, shall reinstate the letter of credit to its original amount; Contractor's failure to do so will be a material breach of this Agreement.

10.2.4. Expiration or Termination of Letter of Credit. The letter of credit must provide for 60 Days' notice to City in the event of non-extension of the letter of credit; in that event, Contractor shall replace the letter of credit at least 10 business Days prior to its expiration. In the event the City receives notice from the issuer of the letter of credit that the letter of credit will be terminated, not renewed or will otherwise be allowed to expire for any reason during the period from the commencement of the term of this Agreement to 90 Days after the expiration or termination of this Agreement, or the conclusion of all of Contractor's obligations under the Agreement, whichever occurs last, and Contractor fails to provide the City with a replacement letter of credit (in a form and issued by a financial institution acceptable to the City) within 10 Days following the City's receipt of such notice, such occurrence shall be an event of default, and, in addition to any other remedies the City may have due to such default (including the right to terminate this Agreement), the City shall be entitled to draw down the entire amount of the letter of credit (or any portion thereof) and hold such funds in an account with the City Treasurer in the form of cash guarantying Contractor's obligations under this Agreement. In such event, the cash shall accrue interest to the Contractor at a rate equal to the average yield of Treasury Notes with one-year maturity, as determined by the Treasurer. In the event the letter of credit is converted into cash pursuant to this paragraph, upon

termination of this Agreement, Contractor shall be entitled to a full refund of the cash (less any demands made thereon by the City) within 90 Days of the termination date, including interest accrued through the termination date.

10.2.5. Return of Letter of Credit. The letter of credit will be returned within 90 Days after the end of the term of this Agreement, provided that Contractor has faithfully performed throughout the life of the Agreement, Contractor has completed its obligations under the Agreement, there are no pending claims involving Contractor's performance under the Agreement and no outstanding disagreement about any material aspect of the provisions of this Agreement. In the event this Agreement is assigned, as provided for in Section 30, City will return or release the letter of credit not later than the effective date of the assignment, provided that the assignee has delivered to the City an equivalent letter of credit, as determined by City.

10.2.6. Excessive Demand. If City receives any payments from the aforementioned bank under the letter of credit by reason of having made a wrongful or excessive demand for payment, City will return to Contractor the amount by which City's total receipts from Contractor and from the bank under the letter of credit exceeds the amount to which City is rightfully entitled, together with interest thereon at the legal rate of interest, but City will not otherwise be liable to Contractor for any damages or penalties.

10.3. Security Fund. Contractor shall deposit into a City-controlled account the amount of \$250,000 to guarantee the performance of its obligations under the Agreement not secured by the Letter of Credit under Section 10.2. These obligations shall include, but not be limited to, failure to perform maintenance and repair work under Section 6.4, and failure to pay liquidated damages as provided in Section 15.2. Prior to withdrawal of any amounts from the Security Fund, SFMTA shall notify Contractor of its intent to withdraw and the circumstances requiring such withdrawal. Contractor shall have one business day to cure any default. After any withdrawal by City of amounts from the Security Fund, Contractor shall restore the Security Fund to its full amount within five business days. City shall return any amounts remaining in the Security Fund within 60 Days of the expiration or termination of this Agreement, or correction of any audit deficiencies after completion of a final audit under Section 23.11, whichever is later.

11. INSURANCE

11.1. Without in any way limiting Contractor's liability pursuant to the "Indemnification" Section of this Agreement, Contractor must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

11.1.1. Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and

11.1.2. Commercial General Liability Insurance (supported by the Commercial Umbrella Policy) with a minimum combined single limit of liability of \$25,000,000 each occurrence for bodily injury and property damage; with a minimum limit of liability of \$25,000,000 each person for personal and advertising injury liability; and a minimum limit of liability of \$25,000,000 each occurrence for products/completed operations liability. Such policy shall have a general aggregate limit of not less than \$25,000,000; and

11.1.3. Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.

11.2. Comprehensive General Liability and Commercial Automobile Liability Insurance policies must provide the following:

11.2.1. Name as Additional Insured the City and County of San Francisco and the San Francisco Municipal Transportation Agency, and their officers, agents, and employees.

11.2.2. That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

11.3. All policies shall provide 30 days' advance written notice to City of reduction or non-renewal of coverages or cancellation of coverages for any reason. Such notices shall be sent to the following address:

Director of Transportation
San Francisco Municipal Transportation Agency
1 South Van Ness Avenue, 7th Floor
San Francisco, CA 94103

with a copy to:

Chief Financial Officer
San Francisco Municipal Transportation Agency
1 South Van Ness Avenue, 8th Floor
San Francisco, CA 94103

11.4. Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

11.5. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

11.6. In the event of the breach of any provision of this Section on "Insurance," or in the event any notice is received which indicates any required insurance coverage will be diminished or cancelled, the Director shall have the option, notwithstanding any other provision of this Agreement to the contrary and in addition to other remedies provided for in this Agreement, immediately to declare a material breach of this Agreement and to suspend the further exercise by Contractor of all rights and privileges granted to Contractor under to this Agreement until such time as the Director determines that the required insurance has been restored to full force and effect and that all premiums have been paid for a period satisfactory to the Director.

11.7. Prior to the Effective Date and annually thereafter on the anniversary of the Effective Date Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above.

11.8. Approval of the insurance by City shall not relieve or decrease the liability of Contractor hereunder.

11.9. Upon City's request, Contractor shall provide satisfactory evidence that Contractor has adequately provided for Social Security and Unemployment Compensation benefits for Contractor's Employees.

11.10. Contractor shall comply with the provisions of any insurance policy covering Contractor or the City, and with any notices, recommendations or directions issued by any insurer under such insurance policies so as not to adversely affect the insurance coverage.

11.11. Consultant hereby agrees to waive subrogation which any insurer of Contractor may acquire from Consultant by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

12. INDEMNIFICATION

Contractor shall indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of Contractor or loss of or damage to property, arising directly or indirectly from Contractor's performance of this Agreement, including, but not limited to, Contractor's use of facilities or equipment provided by City or others, regardless of the negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that such indemnity is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement, and except where such loss, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its subcontractors or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against the City.

In addition to Contractor's obligation to indemnify City, Contractor specifically acknowledges and agrees that it has an immediate and independent obligation to defend City from any claim which actually or potentially falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter.

Contractor shall indemnify and hold City harmless from all loss and liability, including attorneys' fees, court costs and all other litigation expenses for any infringement of the patent rights, copyright, trade secret or any other proprietary right or trademark, and all other intellectual property claims of any person or persons in consequence of the use by City, or any of its officers or agents, of articles or services to be supplied in the performance of this Agreement.

13. INCIDENTAL AND CONSEQUENTIAL DAMAGES

Contractor shall be responsible for incidental and consequential damages resulting in whole or in part from Contractor's acts or omissions. Nothing in this Agreement shall constitute a waiver or limitation of any rights that City may have under applicable law.

14. LIABILITY OF CITY

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS,

ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

15. LIQUIDATED DAMAGES

15.1. Performance Standards. By entering into this Agreement, Contractor agrees that in the event Contractor fails to perform in accordance with the performance standards listed below, City will suffer actual damages that will be impractical or extremely difficult to determine. Contractor agrees that the amounts listed in this Section 15.1 are not penalties, but are reasonable estimates of the loss that City will incur based on the delay or non-performance, established in light of the circumstances existing at the time this contract was awarded.

15.1.1. Maintenance Breaches. City may assess liquidated damages in the following amount for failure to complete maintenance or repair work required to be performed within 24 hours of notification from the SFMTA; provided that Contractor shall have one additional business day to perform such maintenance or repair work after notice from SFMTA: \$1,000 per occurrence per Day until the violation is remedied. The date of notification will be the earliest date of notification, as determined from records of notices received by Contractor under Section 6.4 of this Agreement.

15.1.2. Annual Financial Statement. Contractor's failure to submit any report with substantially all information as required under Section 9.1, will subject Contractor to liquidated damages in the amount of \$500.00 for each Day the report is late continuing until the report has been submitted with all required information.

15.1.3. Failure to Cure Audit Deficiencies. In the event that Contractor fails to cure an audit deficiency within the time periods reasonably imposed by the City under Section 23.11, City may impose liquidated damages not to exceed \$500 per Day per deficiency until the deficiency is cured to the satisfaction of the City.

15.1.4. Failure to Comply with Advertising Policy. In the event that Contractor fails to comply with the SFMTA's advertising policy, the City may impose liquidated damages in the amount of \$5,000.00 per Day if the Contractor fails to cure the violation within two Days after receipt of a written notice from the SFMTA. For purposes of this Section, a "violation" is a failure to comply in the context of a single Advertising Campaign.

15.2. Failure to Pay Liquidated Damages. Contractor agrees that if it fails to remit liquidated damages amounts assessed by City under this Section 15 or under any other section of this Agreement, City may deduct such damages from Contractor's Security Fund provided under Section 10.3 above. Such deductions shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's default failure to perform this Agreement in compliance with specified performance standards.

16. DEFAULT; REMEDIES

16.1. Events of Default. Each of the following shall constitute an event of default ("Event of Default") under this Agreement:

16.1.1. Contractor fails or refuses to perform or observe any term, covenant or condition contained in any of the following Sections of this Agreement: 10, 11, 15, 23.1, 23.2, 23.8, 23.13, 23.16, 23.27, or 23.30.

16.1.2. Contractor fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, and such default continues for a period of ten days after written notice thereof from City to Contractor.

16.1.3. Contractor (a) is generally not paying its debts as they become due, (b) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction, (c) makes an assignment for the benefit of its creditors, (d) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Contractor or of any substantial part of Contractor's property or (e) takes action for the purpose of any of the foregoing.

16.1.4. A court or government authority enters an order (a) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Contractor or with respect to any substantial part of Contractor's property, (b) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (c) ordering the dissolution, winding-up or liquidation of Contractor.

16.2. City's Rights on Default. On and after any Event of Default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement with 30 Days' written notice, or to seek specific performance of all or any part of this Agreement. In addition, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any Event of Default; Contractor shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Contractor under this Agreement or any other agreement between City and Contractor all damages, losses, costs or expenses incurred by City as a result of such Event of Default and any liquidated damages due from Contractor pursuant to the terms of this Agreement or any other agreement.

16.3. No Waiver of Remedies. All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

17. TERMINATION FOR CONVENIENCE

The City may terminate this Agreement in whole, or from time to time part, whenever the Director shall determine that such termination is in the best interest of the City. Any such termination shall be effected by delivery to Contractor of a notice of termination specifying the extent to which the Agreement is terminated and the date on which termination becomes effective. After receipt of a notice of termination, Contractor shall (i) stop performance under this Agreement on the date and to the extent specified in such notice, (ii) enter into no additional Advertising Contract relating to Contractor's rights and interests under the portion of the Agreement terminated, (iii) assign to the City in the manner, at the times, and to the extent directed by the Director, all of the right, title, and interest of the Contractor under Advertising Contracts and subcontracts identified by the Director and related to the rights and interests terminated, and terminate all other contracts and subcontracts related to such rights or interests; and (iv) within 30 Days of the notice of termination, submit to the Director a statement of all outstanding liabilities and claims arising out of such termination of subcontracts, together with

such information as may be required by the Director to evaluate such liabilities and claims. The determination of the Director on such liabilities and claims shall be administratively final.

18. RIGHTS AND DUTIES UPON TERMINATION OR EXPIRATION

18.1. If Contractor does not cure an Event of Default within 30 Days from the date of a notice of termination, City may terminate this Agreement and assume all Advertising Contracts. Termination of this Agreement by City shall not affect the obligations of the Contractor or the rights of City that accrued prior to such termination, except that as of the date of termination Contractor thereafter shall no longer be entitled to any revenues whatsoever from Advertising Contracts then in force.

18.2. This Section and the following Sections of this Agreement shall survive termination or expiration of this Agreement: 1.5, 1.9, 1.17, 1.18, 1.20, 1.24 through 1.27, 1.29, 5.5, 6.1.1, 8.1, 8.2, 11 through 13, 15, 23.1, 23.2, 23.4 through 23.9, 23.11.1, 23.11.2, 23.23 through 23.26, 23.30.

18.3. Any and all Advertisements that have been placed in Advertising Spaces as of the date of termination of this Agreement shall become the property of City and, at City's discretion, may remain on or in the Advertising Spaces, and Contractor shall not be entitled to possession of such materials. Contractor agrees to execute all documents necessary to give effect to this Section.

18.4. To the extent that this Agreement is terminated prior to expiration of the term specified in Section 2, this Agreement or the terminated portion of the Agreement shall terminate and be of no further force or effect. Contractor shall transfer title to City, and deliver in the manner, at the times, and to the extent, if any, directed by City, any work in progress, completed work, supplies, equipment, and other materials produced as a part of, or acquired in connection with the performance of this Agreement, and any completed or partially completed work which, if this Agreement had been completed, would have been required to be furnished to City. This subsection shall survive termination of this Agreement.

19. LOCAL BUSINESS PARTICIPATION; EMPLOYMENT REQUIREMENTS

19.1. LBE Participation. In accordance with the mutual commitment of the parties to encourage the use of Local Business Enterprises (LBEs) in performing work or supplying materials and services under this Agreement, Contractor shall comply with the following LBE provisions:

19.1.1. Commitment. To the extent that Contractor procures supplies or services in connection with this Agreement, or subcontracts or joint ventures work under this Agreement, Contractor agrees to utilize certified LBE firms in support of the SFMTA's LBE Program goals. Contractor further shall encourage advertisers and advertising agencies to utilize LBEs. Information pertaining to LBEs is available from the Contract Compliance Office ("CCO") of the SFMTA, at One South Van Ness Ave., 6th floor, San Francisco, CA 94103, Phone: 415- 701-4443.

19.1.2. Nature of LBE Participation. LBE participation includes contracts with LBEs for any goods or services specifically required for the completion of the LBE Work. An LBE may participate as a prime contractor, subcontractor, joint venture partner with a prime contractor, or a supplier of materials or equipment to fulfill the LBE goal for the LBE Work.

19.1.3. Function. A LBE must perform a commercially useful function, i.e., must be responsible for the execution of a distinct element of work and must carry out its responsibility by actually performing, managing and supervising the work. However, a LBE may contract out a portion of the work if it is considered to be a normal industry practice. If a LBE subcontracts a significantly greater portion of the work of the contract

than would be expected on the basis of normal industry practices, the LBE shall be presumed not to be performing a commercially useful function.

19.1.4. Mentoring Program. Contractor agrees to use its best efforts to work with a LBE or LBE-eligible San Francisco firm(s) to become a supplier and fabricator of non-illuminated static advertising frames for this and other of Contractor's advertising contracts or to perform printing services for Contractor and its advertising clients. Contractor's work in this regard shall include, but not be limited to, providing specifications and samples of the product to the local firm(s) and assisting the firm(s) in becoming certified as a LBE, if the firm has not already been certified.

19.1.5. Quarterly Meetings. The Contractor shall meet with the CCO on a quarterly basis to review and update the projection of subcontracting and make any revisions necessary to achieve LBE participation.

(a) LBE Prime Contractor. SFMTA counts the entire dollar amount of the work performed or services provided by the LBE's own forces, including the cost of materials and supplies obtained for the work and the reasonable fees and commissions charged for the services. Do not count any work subcontracted to another firm as LBE participation by the LBE Prime Contractor.

(b) LBE Subcontractor. SFMTA counts the entire amount of the work performed or services provided by the LBE's own forces, including the cost of materials and supplies obtained for the work (except for materials and supplies purchased or leased from the Prime Consultant or supplier) and reasonable fees and commissions charged for the services. SFMTA does not count any work subcontracted by an LBE subcontractor to another firm as LBE participation by said LBE subcontractor. If the work has been subcontracted to another LBE, it will be counted as LBE participation by that other LBE.

(c) LBE Joint Venture Partner. SFMTA counts the portion of the work that is performed solely by the LBE's forces or if the work is not clearly delineated between the LBE and the joint venture partner, count the portion of the work equal to the LBE's percentage of ownership interest in the joint venture.

(d) Other LBEs. SFMTA counts the entire amount of fees or commissions charged for assistance in procuring or delivering materials and supplies when purchased from a LBE that is not a manufacturer or Regular Dealer. SFMTA does not count the cost of the materials and supplies.

(e) Materials or Supplies. SFMTA counts expenditures with LBEs for materials or supplies as follows:

(i) If the materials or supplies are obtained from a LBE Manufacturer, SFMTA counts 100% of the cost of the materials or supplies.

(ii) For purposes of this paragraph (e)1(i), a LBE Manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.

(iii) If the materials or supplies are purchased from a LBE Regular Dealer, SFMTA counts 60% of the cost of the materials or supplies.

(iv) For purposes of this Section, a Regular Dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

19.1.6. Substitution of Subcontractor and Suppliers. The Contractor may not terminate a LBE subcontractor or supplier for convenience and then perform the work with its own forces unless the Contractor first reviews the reasons for such decision with the CCO and receives the approval of the CCO. The CCO's approval may not be unreasonably withheld. In other situations, the Contractor must make good faith efforts to substitute another LBE for an original LBE subcontractor or supplier when the original LBE subcontractor or supplier is terminated or fails to complete the work on the contract. The Contractor will notify SFMTA in writing of any request to substitute a LBE subcontractor or supplier and provide the CCO with any documentation requested to support the substitution. The CCO must approve the request in writing in order for the substitution to be valid. The substitution may also have to be approved by the SFMTA Board of Directors.

19.1.7. Addition of Subcontractors and Suppliers. The Contractor shall notify the CCO prior to any addition of a LBE subcontractor or supplier to the Agreement and submit Form 2A: CMD Contract Participation Form, attached as Appendix E.

19.1.8. Reporting Requirements. The Contractor will submit to the CCO copies of all signed subcontractor and supplier agreements or purchase orders within 10 Days of their execution. The Contractor shall maintain records of all LBE participation in the performance of the contract, including subcontracts entered into with certified LBEs and all materials purchased from certified LBEs. The Contractor shall submit LBE participation reports to City on a quarterly basis, or as otherwise directed by City. The reports shall identify the name and address of each LBE performing work on the project, and show the total dollar amount requested for payment and the total dollar amount actually paid to each LBE. Within 30 Days of completion of the subcontract or purchase order, or as otherwise directed by the CCO, the Contractor will submit a final summary LBE report to the CCO.

19.1.9. Enforcement. In order to establish its LBE program at the earliest possible date, Contractor shall designate an employee or consultant to act as a coordinator of Contractor's LBE obligations. Contractor's failure to make a good faith effort, as determined by the CCO, to encourage LBE participation or to comply with Section 19.1.4, will constitute a material breach of contract and in the event said breach is not cured within 60 Days from receipt of written notice of said breach, City will be entitled to have and elect among any of the remedies set forth in Section 16.2.

19.2 Trainees

a. Trainee Requirements: Contractors are required to comply with the City's First Source Program, Administrative Code Section 83, which fosters employment opportunities for economically disadvantaged individuals. Contractors are required to notify the First Source Program of all open, entry-level positions and consider all program referrals fairly and equally. In addition, the SFMTA requires contractors to hire a minimum number of professional service trainees in the area of the consultant's expertise. The **Contractor shall hire a minimum of two trainees**. These hires count toward the First Source Hiring requirements. Trainees may be obtained through the City's One Stop Employment

Center, which works with various employment and job training agencies/organizations or other employment referral source.

b. The trainee must be hired by the Contractor or by any subcontractor on the project team.

c. No trainee may be counted towards meeting more than one contract goal.

d. A trainee must meet qualifications for enrollment established under the City's First Source Hiring Program as follows:

(i) "Qualified" with reference to an economically disadvantaged individual shall mean an individual who meets the minimum bona fide occupational qualifications provided by the prospective employer to the San Francisco Workforce Development System in the job availability notices required by the Program, and

(ii) "Economically disadvantaged individual" shall mean an individual who is either: (1) eligible for services under the Workforce Investment Act of 1988 (WIA) (29 U.S.C.A. 2801 et seq.), as determined by the San Francisco Private Industry Council; or (2) designated "economically disadvantaged" for the First Source Hiring Administration, as an individual who is at risk of relying upon, or returning to, public assistance.

e. On-the-job Training (to be provided by the Contractor): The Contractor shall hire the trainee on a full-time basis for at least 12 months or on a part-time basis for 24 months, with prior approval offering him/her on-the-job training which allows the trainee to progress on a career path.

f. A summary of a job description and training for the trainee with the rate of pay should be submitted for approval.

g. The trainee's commitment does not require that he/she is used only on this project, but also on other projects under contract to the hiring firm, which is appropriate for the trainee's skill development.

20. FIRST SOURCE HIRING PROGRAM

20.1. Incorporation of Administrative Code Provisions by Reference. The provisions of Chapter 83 of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with, and be bound by, all of the provisions that apply to this Agreement under such Chapter, including but not limited to the remedies provided therein. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 83.

20.2. First Source Hiring Agreement. As an essential term of, and consideration for, any contract or property contract with the City, not exempted by the FSHA, the Contractor shall enter into a first source hiring agreement ("agreement") with the City, on or before the effective date of the contract or property contract. Contractors shall also enter into an agreement with the City for any other work that it performs in the City. Such agreement shall:

20.2.1. Set appropriate hiring and retention goals for entry level positions. The employer shall agree to achieve these hiring and retention goals, or, if unable to achieve these goals, to establish good faith efforts as to its attempts to do so, as set forth in the agreement. The agreement shall take into consideration the employer's

participation in existing job training, referral and/or brokerage programs. Within the discretion of the FSHA, subject to appropriate modifications, participation in such programs maybe certified as meeting the requirements of this Chapter. Failure either to achieve the specified goal, or to establish good faith efforts will constitute noncompliance and will subject the employer to the provisions of Section 83.10 of this Chapter.

20.2.2. Set first source interviewing, recruitment and hiring requirements, which will provide the San Francisco Workforce Development System with the first opportunity to provide qualified economically disadvantaged individuals for consideration for employment for entry level positions. Employers shall consider all applications of qualified economically disadvantaged individuals referred by the System for employment; provided however, if the employer utilizes nondiscriminatory screening criteria, the employer shall have the sole discretion to interview and/or hire individuals referred or certified by the San Francisco Workforce Development System as being qualified economically disadvantaged individuals. The duration of the first source interviewing requirement shall be determined by the FSHA and shall be set forth in each agreement, but shall not exceed 10 days. During that period, the employer may publicize the entry level positions in accordance with the agreement. A need for urgent or temporary hires must be evaluated, and appropriate provisions for such a situation must be made in the agreement.

20.2.3. Set appropriate requirements for providing notification of available entry level positions to the San Francisco Workforce Development System so that the System may train and refer an adequate pool of qualified economically disadvantaged individuals to participating employers. Notification should include such information as employment needs by occupational title, skills, and/or experience required, the hours required, wage scale and duration of employment, identification of entry level and training positions, identification of English language proficiency requirements, or absence thereof, and the projected schedule and procedures for hiring for each occupation. Employers should provide both long-term job need projections and notice before initiating the interviewing and hiring process. These notification requirements will take into consideration any need to protect the employer's proprietary information.

20.2.4. Set appropriate record keeping and monitoring requirements. The First Source Hiring Administration shall develop easy-to-use forms and record keeping requirements for documenting compliance with the agreement. To the greatest extent possible, these requirements shall utilize the employer's existing record keeping systems, be nonduplicative, and facilitate a coordinated flow of information and referrals.

20.2.5. Establish guidelines for employer good faith efforts to comply with the first source hiring requirements of this Chapter. The FSHA will work with City departments to develop employer good faith effort requirements appropriate to the types of contracts and property contracts handled by each department. Employers shall appoint a liaison for dealing with the development and implementation of the employer's agreement. In the event that the FSHA finds that the employer under a City contract or property contract has taken actions primarily for the purpose of circumventing the requirements of this Chapter, that employer shall be subject to the sanctions set forth in Section 83.10 of this Chapter.

20.2.6. Set the term of the requirements.

20.2.7. Set appropriate enforcement and sanctioning standards consistent with this Chapter.

20.2.8. Set forth the City's obligations to develop training programs, job applicant referrals, technical assistance, and information systems that assist the employer in complying with this Chapter.

20.2.9. Require the developer to include notice of the requirements of this Chapter in leases, subleases, and other occupancy contracts.

20.3. Hiring Decisions. Contractor shall make the final determination of whether an Economically Disadvantaged Individual referred by the System is "qualified" for the position.

20.4. Exceptions. Upon application by Employer, the First Source Hiring Administration may grant an exception to any or all of the requirements of Chapter 83 in any situation where it concludes that compliance with this Chapter would cause economic hardship.

20.5. Liquidated Damages. Contractor agrees:

20.5.1. To be liable to the City for liquidated damages as provided in this section;

20.5.2. To be subject to the procedures governing enforcement of breaches of contracts based on violations of contract provisions required by this Chapter as set forth in this section;

20.5.3. That the contractor's commitment to comply with this Chapter is a material element of the City's consideration for this contract; that the failure of the contractor to comply with the contract provisions required by this Chapter will cause harm to the City and the public which is significant and substantial but extremely difficult to quantify; that the harm to the City includes not only the financial cost of funding public assistance programs but also the insidious but impossible to quantify harm that this community and its families suffer as a result of unemployment; and that the assessment of liquidated damages of up to \$5,000 for every notice of a new hire for an entry level position improperly withheld by the contractor from the first source hiring process, as determined by the FSHA during its first investigation of a contractor, does not exceed a fair estimate of the financial and other damages that the City suffers as a result of the contractor's failure to comply with its first source referral contractual obligations.

20.5.4. That the continued failure by a contractor to comply with its first source referral contractual obligations will cause further significant and substantial harm to the City and the public, and that a second assessment of liquidated damages of up to \$10,000 for each entry level position improperly withheld from the FSHA, from the time of the conclusion of the first investigation forward, does not exceed the financial and other damages that the City suffers as a result of the contractor's continued failure to comply with its first source referral contractual obligations;

20.5.5. That in addition to the cost of investigating alleged violations under this Section, the computation of liquidated damages for purposes of this section is based on the following data:

(a) The average length of stay on public assistance in San Francisco's County Adult Assistance Program is approximately 41 months at an average monthly grant of \$348 per month, totaling approximately \$14,379; and

(b) In 2004, the retention rate of adults placed in employment programs funded under the Workforce Investment Act for at least the first six months of employment was 84.4%. Since qualified individuals under the First Source program face far fewer barriers to employment than their counterparts in programs funded by the Workforce Investment Act, it is reasonable to conclude that the average length of employment for an individual whom the First Source Program refers to an employer and who is hired in an entry level position is at least one year; therefore, liquidated damages that total \$5,000 for first violations and \$10,000 for subsequent violations as determined by FSHA constitute a fair, reasonable, and conservative attempt to quantify the harm caused to the City by the failure of a contractor to comply with its first source referral contractual obligations.

20.5.6. That the failure of contractors to comply with this Chapter, except property contractors, may be subject to the debarment and monetary penalties set forth in Sections 6.80 et seq. of the San Francisco Administrative Code, as well as any other remedies available under the contract or at law; and

20.5.7. That in the event the City is the prevailing party in a civil action to recover liquidated damages for breach of a contract provision required by this Chapter, the contractor will be liable for the City's costs and reasonable attorneys fees.

20.5.8. Violation of the requirements of Chapter 83 is subject to an assessment of liquidated damages in the amount of \$5,000 for every new hire for an Entry Level Position improperly withheld from the first source hiring process. The assessment of liquidated damages and the evaluation of any defenses or mitigating factors shall be made by the FSHA.

20.6. Subcontracts. Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of Chapter 83 and shall contain contractual obligations substantially the same as those set forth in this Section.

21. REQUIRING MINIMUM COMPENSATION FOR COVERED EMPLOYEES

21.1. Contractor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at www.sfgov.org/olse/mco. A partial listing of some of Contractor's obligations under the MCO is set forth in this Section. Contractor is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

21.2. The MCO requires Contractor to pay Contractor's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Contractor is obligated to keep informed of the then-current requirements. Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is Contractor's obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Contractor.

21.3. Contractor shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within

90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

21.4. Contractor shall maintain employee and payroll records as required by the MCO. If Contractor fails to do so, it shall be presumed that the Contractor paid no more than the minimum wage required under State law.

21.5. The City is authorized to inspect Contractor's job sites and conduct interviews with employees and conduct audits of Contractor

21.6. Contractor's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Contractor fails to comply with these requirements. Contractor agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Contractor's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

21.7. Contractor understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

21.8. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

21.9. If Contractor is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000, but Contractor later enters into an agreement or agreements that cause contractor to exceed that amount in a fiscal year, Contractor shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Contractor and this department to exceed \$25,000 in the fiscal year.

22. REQUIRING HEALTH BENEFITS FOR COVERED EMPLOYEES

Contractor agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is available on the web at www.sfgov.org/olse. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

22.1. For each Covered Employee, Contractor shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Contractor chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

22.2. Notwithstanding the above, if the Contractor is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

22.3. Contractor's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Contractor if such a breach has occurred. If, within 30 Days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

22.4. Any Subcontract entered into by Contractor shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Contractor shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Contractor shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Contractor based on the Subcontractor's failure to comply, provided that City has first provided Contractor with notice and an opportunity to obtain a cure of the violation.

22.5. Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Contractor's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

22.6. Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

22.7. Contractor shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City Contract.

22.8. Contractor shall keep itself informed of the current requirements of the HCAO.

22.9. Contractor shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

22.10. Contractor shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

22.11. Contractor shall allow City to inspect Contractor's job sites and have access to Contractor's employees in order to monitor and determine compliance with HCAO.

22.12. City may conduct random audits of Contractor to ascertain its compliance with HCAO. Contractor agrees to cooperate with City when it conducts such audits.

22.13. If Contractor is exempt from the HCAO when this Agreement is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Contractor later enters into an agreement or

agreements that cause Contractor's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Contractor and the City to be equal to or greater than \$75,000 in the fiscal year.

23. MISCELLANEOUS PROVISIONS

23.1. Submitting False Claims; Monetary Penalties. Pursuant to San Francisco Administrative Code § 21.35, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for three times the amount of damages which the City sustains because of the false claim. A contractor, subcontractor or consultant who submits a false claim shall also be liable to the City for the costs, including attorneys' fees, of a civil action brought to recover any of those penalties or damages, and may be liable to the City for a civil penalty of up to \$10,000 for each false claim. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

23.2. Taxes

23.2.1. Payment of any taxes, including possessory interest taxes and California sales and use taxes, levied upon or as a result of this Agreement, or the services delivered pursuant hereto, shall be the obligation of Contractor.

23.2.2. Contractor recognizes and understands that this Agreement may create a "possessory interest" for property tax purposes. Generally, such a possessory interest is not created unless the Agreement entitles the Contractor to possession, occupancy, or use of City property for private gain. If such a possessory interest is created, then the following shall apply:

(a) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that Contractor, and any permitted successors and assigns, may be subject to real property tax assessments on the possessory interest;

(b) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extension, renewal, or assignment of this Agreement may result in a "change in ownership" for purposes of real property taxes, and therefore may result in a revaluation of any possessory interest created by this Agreement. Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report on behalf of the City to the County Assessor the information required by Revenue and Taxation Code Section 480.5, as amended from time to time, and any successor provision.

(c) Contractor, on behalf of itself and any permitted successors and assigns, recognizes and understands that other events also may cause a change of ownership of the possessory interest and result in the revaluation of the possessory interest. (see, e.g., Rev. & Tax. Code Section 64, as amended from time to time). Contractor accordingly agrees on behalf of itself and its permitted successors and assigns to report any change in ownership to the County Assessor, the State Board of Equalization or other public agency as required by law.

(d) Contractor further agrees to provide such other information as may be requested by the City to enable the City to comply with any reporting requirements for possessory interests that are imposed by applicable law.

23.3. Qualified Personnel. Work under this Agreement shall be performed only by competent personnel under the supervision of and in the employment of Contractor. Contractor will comply with City's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at City's request, must be supervised by Contractor. Contractor shall commit adequate resources to complete the project within the project schedule specified in this Agreement. Contractor shall provide an experienced local sales force with the capability to acquire national advertising accounts, and adequate production personnel to assure the utmost in design, construction, placement and maintenance of Advertisements and Infrastructure, as well as a fully staffed business office in San Francisco.

23.4. Responsibility for Equipment. City shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or by any of its employees, even though such equipment be furnished, rented or loaned to Contractor by City.

23.5. Independent Contractor. Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Contractor or any agent or employee of Contractor shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or employee of Contractor providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Contractor or any agent or employee of Contractor.

Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Contractor performs work under this Agreement.

23.6. Payment of Taxes and Other Expenses Should City, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Contractor is an employee for purposes of collection of any employment taxes, the amounts payable under this Agreement shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Contractor which can be applied against this liability). City shall then forward those amounts to the relevant taxing authority.

Should a relevant taxing authority determine a liability for past services performed by Contractor for City, upon notification of such fact by City, Contractor shall promptly remit such amount due or arrange with City to have the amount due withheld from future payments to Contractor under this Agreement (again, offsetting any amounts already paid by Contractor which can be applied as a credit against such liability).

A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Agreement, Contractor shall not be considered an employee of City. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Contractor is an employee for any other purpose, then Contractor agrees to a reduction in City's financial liability

so that City's total expenses under this Agreement are not greater than they would have been had the court, arbitrator, or administrative authority determined that Contractor was not an employee.

23.7. Conflict of Interest. Through its execution of this Agreement, Contractor acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Agreement.

23.8. Proprietary or Confidential Information of City. Contractor understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Contractor agrees that all information disclosed by City to Contractor shall be held in confidence and used only in performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

23.9. Notices to the Parties. Unless otherwise indicated elsewhere in this Agreement, all written communications sent by the parties may be by U.S. mail, e-mail or by fax, and shall be addressed as follows:

To City: San Francisco Municipal Transportation Agency
Attn: Chief Financial Officer
One South Van Ness Ave. 8th floor
San Francisco, California 94103

with a copy to: San Francisco Municipal Transportation Agency
Attn: Contracts and Procurements
One South Van Ness Ave. 6th floor
San Francisco, California 94103

To Contractor: **[Insert name of contractor]**

Any notice of default must be hand-delivered or sent by registered mail.

23.10. Works for Hire. If, in connection with services performed under this Agreement, Contractor or its subcontractors create artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes or any other original works of authorship, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of the City. If it is ever determined that any works created by Contractor or its subcontractors under this Agreement are not works for hire under U.S. law, Contractor hereby assigns all copyrights to such works to the City, and agrees to provide any material and execute any documents necessary to effectuate such assignment. With the approval of the City, Contractor may retain and use copies of such works for reference and as documentation of its experience and capabilities.

23.11. Audit and Inspection of Records

23.11.1. Records. Contractor shall maintain all Records in accordance with generally accepted accounting principles. All Records shall be maintained throughout the term of this Agreement at Contractor's San Francisco office and shall be

maintained for five years following termination or expiration of this Agreement in a safe and secure location within the San Francisco Bay Area.

23.11.2. City's Right to Inspect and Copy. Any duly authorized agent of City shall have the right to examine and/or copy all Records at any time during normal business hours, provided that Contractor shall be allowed at least 48 hours after City identifies Records it wishes to copy to mark any such Records as confidential or proprietary. Records created or maintained in an electronic format shall be available to the City and its agents for examination and/or copying in an electronic format.

23.11.3. Audits. Contractor will cooperate fully with the performance by City or its agents of Contract Performance and Operations Audits. A Contract Performance Audit may examine any and all aspects of the Contractor's obligations under this Agreement. An Operations Audit may examine the quality and effectiveness of Contractor's organizational Structure, internal controls, financial reporting and business practices. City may require each type of audit no more than once per calendar year. City shall provide Contractor with 15 Days' notice of any audit to be performed under this Section. The State of California or any federal agency having an interest in the subject matter of this Agreement will have the same rights conferred upon City by this Section.

23.11.4. Findings of Nonperformance. In the event that any audit conducted pursuant to Section 23.11.3 results in a determination that Contractor has failed to perform any material term of this Agreement, City will issue a written Finding of Nonperformance to Contractor. Such Finding of Nonperformance will include a calculation of liquidated damages for Contractor's failure to perform, using the measure of liquidated damages specified in Section 15.1.3. Contractor's failure to cure may result in an Event of Default pursuant to Section 16. Any failure of City to list any violation of the terms of this Agreement in the Finding of Nonperformance shall not constitute a waiver of the City's right to impose any other right or remedy that it has under this Agreement or applicable law with respect to that violation.

23.12. Subcontracting. Contractor is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is first approved by City in writing. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void.

23.13. Assignment. The services to be performed by Contractor are personal in character and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by the Contractor unless first approved by City by written instrument executed and approved as required by law.

23.14. Non-Waiver of Rights. The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

23.15. Nondiscrimination; Penalties

23.15.1. Contractor Shall Not Discriminate. In the performance of this Agreement, Contractor agrees not to discriminate against any employee, City and County employee working with such contractor or subcontractor, applicant for employment with such contractor or subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation,

gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

23.15.2. Incorporation of Administrative Code Provisions by

Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Contractor understands that pursuant to §§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Contractor and/or deducted from any payments due Contractor.

23.16. Drug-Free Workplace Policy. Contractor acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Contractor agrees that any violation of this prohibition by Contractor, its employees, agents or assigns will be deemed a material breach of this Agreement.

23.17. Compliance with Americans With Disabilities Act. Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns will constitute a material breach of this Agreement.

23.18. Sunshine Ordinance. In accordance with San Francisco Administrative Code §67.24(e), contracts, contractors' bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

23.19. Limitations on Contributions. Through execution of this Agreement, Contractor acknowledges that it is familiar with Section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Contractor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Contractor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief

financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126.

23.20. Prohibition on Political Activity with City Funds. In accordance with San Francisco Administrative Code Chapter 12.G, Contractor may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the performance of the services provided under this Agreement. Contractor agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the City's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Contractor violates the provisions of this Section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this Agreement, and (ii) prohibit Contractor from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider Contractor's use of profit as a violation of this Section.

23.21. Preservative-Treated Wood Containing Arsenic. Contractor may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Contractor may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Contractor from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

23.22. Modification of Agreement. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved as required by law.

23.23. Administrative Remedy for Agreement Interpretation. Should any question arise as to the meaning and intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to Purchasing who shall decide the true meaning and intent of the Agreement.

23.24. Agreement Made in California; Venue. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

23.25. Construction. All paragraph captions are for reference only and shall not be considered in construing this Agreement.

23.26. Entire Agreement. This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This contract may be modified only as provided in Section 23.22.

23.27. Compliance with Laws. Contractor shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

23.28. Services Provided by Attorneys. Any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. No invoices for services provided by law firms or attorneys, including, without limitation, as subcontractors of Contractor, will be paid unless the provider received advance written approval from the City Attorney.

23.29. Severability. Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

23.30. Protection of Private Information. Contractor has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Contractor agrees that any failure of Contractor to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of the Contract. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Contract, bring a false claim action against the Contractor pursuant to Chapter 21 of the Administrative Code, or debar the Contractor.

23.31. Graffiti Removal. Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of Graffiti. Contractor shall remove all Graffiti from any Advertising Space or real property owned or leased by Contractor in the City and County of San Francisco within 48 hours of the earlier of Contractor's (a) discovery or notification of the Graffiti or (b) receipt of notification of the Graffiti from the Department of Public Works. This Section is not intended to require a Contractor to breach any lease or other agreement that it may have concerning its use of the real property. Any failure of Contractor to comply with this Section of this Agreement shall constitute an Event of Default of this Agreement.

23.32. Food Service Waste Reduction Requirements. Effective June 1, 2007, Contractor agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement. By entering into this Agreement, Contractor agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the sum of \$100 liquidated damages for the first breach, \$200 liquidated damages for the second breach in the same year, and \$500 liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's failure to comply with this provision.

23.33. No Third Party Beneficiaries. Except as expressly provided herein, this Agreement is for the benefit of the signatories to the Agreement only and no other person or entity shall be entitled to rely on, receive any benefit from, or enforce against either party any provision of this Agreement.

23.34. Disputes. Disputes arising in the performance of this Agreement that are not resolved by agreement of the parties will be decided in writing by the Chief Financial Officer of the SFMTA. The decision will be administratively final and conclusive unless, within 10 Days from the date of such decision, the Contractor mails or otherwise delivers a written appeal to the Director. Any appeal must contain the following: (a) a statement of the Contractor's position, (b) a summary of the arguments supporting that position, and (c) any evidence supporting the Contractor's position. The decision of the Director will be administratively final and conclusive. Pending final resolution of a dispute hereunder, the Contractor must proceed diligently with the performance of its obligations under the Agreement. Under no circumstances may the Contractor or its subcontractors stop work due to an unresolved dispute. An alternative dispute resolution process may be used in lieu of the procedures set forth in this Section 53 if the City and contractor agree to such alternative procedures.

23.35. MacBride Principles--Northern Ireland. The City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, Contractor acknowledges that it has read and understood this Section.

24. INCLUDED APPENDICES.

The following documents appended to this Agreement are incorporated by reference:

- A. Vehicles
- B. Installation and Maintenance Plan
- C. MTA Advertising Policy
- D. Sales Activity Report
- E. Form 2A: CMD Contract Participation Form

The remainder of this page has intentionally been left blank.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first mentioned above.

CITY	CONTRACTOR
<p>By _____ EDWARD D. REISKIN Director of Transportation San Francisco Municipal Transportation Agency</p> <p>SFMTA Board of Directors</p> <p>Resolution No. _____</p> <p>Dated: _____</p> <p>ATTEST:</p> <p>_____ Secretary, Municipal Transportation Agency Board of Directors</p> <p>Board of Supervisors Resolution No. _____ Dated: _____</p> <p>Attest:</p> <p>_____ Clerk of the Board</p> <p>Approved as to Form:</p> <p>Dennis J. Herrera City Attorney</p> <p>By:</p> <p>_____ Stephanie Stuart Deputy City Attorney</p>	<p>[Insert Name of Contractor]</p> <p>By signing this Agreement, I certify that I comply with the requirements of the Minimum Compensation Ordinance, which entitle Covered Employees to certain minimum hourly wages and compensated and uncompensated time off.</p> <p>By _____</p>

APPENDIX A

Vehicles

Approximate total fleet count: 1,055 vehicles:

Distributed among 5 distinct vehicle types:

1. 525 Motor Buses
2. 301 Trolley Buses
3. 149 Light Rail Vehicles
4. 40 Cable Cars
5. 40 Historic Streetcars

APPENDIX B

INSTALLATION AND MAINTENANCE PLAN

POSTING TIMELINE

Contractor shall ensure timely posting and removal of all Advertisements as specified in Section 6.5. Should SFMTA require removal of an Advertisement or Advertising Campaign (e.g., for failure to comply with its Advertising Policy), Contractor shall remove such Advertisements within 72 hours of written notification (for an Advertising Campaign) and 24 hours of written notification for a single Advertisement.

CLEANING SCHEDULE AND PRODUCTS

Contractor agrees to keep all advertising displays in pristine condition by ensuring that each advertising device is visited/inspected by an operations employee of Contractor as required under Section 6.3.

In furtherance of the requirements of Section 6.7, Contractor shall use its best efforts to use “green” products and technologies, including using green posting and cleaning materials as available.

MINIMIZING INTERFERENCE TO SFMTA OPERATIONS DURING MAINTENANCE AND INSTALLATION ACTIVITIES.

Contractor shall work with the SFMTA to ensure that its placement, maintenance and removal of advertisements shall not disrupt service or inconvenience passengers. Contractor’s operations group shall install advertisements mostly at night, but may perform work during the day with prior authorization from the Director.

RESPONSE TO HAZARDOUS CONDITIONS AND COMPLAINTS

As required under Section 6.4, Contractor shall repair any deficiency, including damage to an advertising display or Infrastructure within 24 hours of notification by the City. Contractor shall respond to and commence correction to any emergency condition within four hours.

Contractor shall respond to any question, request, concern or complaint within 24 hours after receipt.

STAFFING

Contractor intends to utilize its own employees for installation and maintenance of all Advertisements and Infrastructure. Contractor currently has 11 union employees and

three operations managers in its San Francisco operation, which will increase by four additional employees to service the SFMTA inventory. Contractor will also have at least one specialist in San Francisco who will be dedicated to scheduling, charting and managing advertising inventory, arranging for the timely installation and removal of advertisements, and ensuring that paid occupancy space is maximized while vacant space is eliminated.

SAFETY

Contractor shall comply with all applicable and relevant federal, state and local safety and health rules and regulations, including, but not limited to, rules established in the United States by OSHA, the Federal and State EPA and the Federal and State Department of Transportation. Posting, cleaning and any related activity shall only be performed by Contractor personnel that have successfully completed safety training and all employees shall comply with all SFMTA safety requirements.

APPENDIX C

SFMTA Advertising Policy

[To be added after consideration by the SFMTA Board of Directors
on October 15, 2013]

APPENDIX D

(1) Sales Activity Report:

Contract #	Advertiser's Name	Client Category	Advertisement Category	Quantity Sold per Week/Month	Advertisement Rate	Gross Revenues	Commission	Net Revenues
		(1)	(2)					

- (1) Commercial National, Commercial Local, Municipal Public Service, etc.
 (2) Fashion, Media, Automotive, etc.

(2) Account Activity Summary by Display Location:

The same information as above by Display Type, External and Internal

(3) Account Activity Summary by Display Type:

Categories of Advertising Clients

Categories of Advertisers	% of Net Monthly Revenues (less Agency Commission)
Commercial – National	%
Commercial – Regional/Local	%
Municipal	%
Public Service	%

(4) Bay Area Distribution of Contracts:

Contract #	Gross Revenues	% Muni	% *	% *

* Insert names of other Bay Area transit properties

APPENDIX E

FORM 2A: CMD CONTRACT PARTICIPATION FORM

Section 1: This form must be submitted with the proposal or the proposal may be deemed non-responsive and rejected. Prime Proposer, each Joint Venture Partner, Subconsultants, Vendors, and lower sub tiers must be listed on this form. Only CMD certified Small and/or Micro-LBEs can be used to meet the LBE subconsultant participation goal unless the RFP allows for SBA-LBE subconsultants to count towards the LBE participation goal. A Small and/or Micro- LBE Prime proposer/JV with LBE participation must meet the LBE subconsultant goal. A Small and/or Micro-LBE Prime proposer/JV with LBE participation may not count its participation towards meeting the LBE subconsultant participation goal. Be sure to check box for Rating Bonus. If more space is needed, attach additional copies of this form. This form is also completed and submitted for all contract modifications which exceed the original contract amount by more than 20%.

Contract:		RATING BONUS	
		<input type="checkbox"/> LBE 10%	<input type="checkbox"/> Joint Venture 7.5%
Firm:		<input type="checkbox"/> Joint Venture 5%	I. <input type="checkbox"/> Joint Venture 10% (LBEs ONLY)
Contact Person:		<input type="checkbox"/> No Rating Bonus Requested	
Address:		LBE Goal %	
City/ZIP			
Phone			

***Type: Identify if prime (P), JV partner (J), Subconsultant (S), or Vendor (V)**

TYPE *	Firm	PORTION OF WORK (describe scope(s) of work)	% OF WORK	INDICATE LBE YES/NO	If an LBE, Identify MBE, WBE, or OBE **	% OF LBE SUBWORK
			%			%
			%			%
			%			%
			%			%
			Total % of Work: 100%	Total LBE Subconsulting%		%

** MBE = Minority Business Enterprise, WBE = Women Business Enterprise, OBE = Other Business Enterprise. See CMD website: <http://sfgov.org/cmd> for each firm's status.

I declare, under penalty of perjury under the laws of the State of California, that I am utilizing the above Consultants for the portions of work and amounts as reflected in the Proposal for this Contract.

**Owner/Authorized Representative
(Signature):** _____

Date: _____

Print Name and Title: _____

Section 2. Prime Proposer, Joint Venture Partners, Subconsultant, and Vendor Information

Provide information for each firm listed in Section 1 of this form. Firms which have previously worked on City contracts may already have a vendor number. Vendor numbers of LBE firms are located in the CMD LBE website at <http://sfgov.org/cmd>. Use additional sheets if necessary.

FIRM NAME: _____	VENDOR #: _____
ADDRESS: _____	FEDERAL #: _____
CITY, ST, ZIP: _____ PHONE _____	FAX: _____
SERVICE: _____	

FIRM NAME: _____	VENDOR #: _____
ADDRESS: _____	FEDERAL #: _____
CITY, ST, ZIP: _____ PHONE _____	FAX: _____
SERVICE: _____	

FIRM NAME: _____	VENDOR #: _____
ADDRESS: _____	FEDERAL #: _____
CITY, ST, ZIP: _____ PHONE _____	FAX: _____
SERVICE: _____	

FIRM NAME: _____	VENDOR #: _____
ADDRESS: _____	FEDERAL #: _____
CITY, ST, ZIP: _____ PHONE _____	FAX: _____
SERVICE: _____	

FIRM NAME: _____	VENDOR #: _____
ADDRESS: _____	FEDERAL #: _____
CITY, ST, ZIP: _____ PHONE _____	FAX: _____
SERVICE: _____	

FIRM NAME: _____	VENDOR #: _____
ADDRESS: _____	FEDERAL #: _____
CITY, ST, ZIP: _____ PHONE _____	FAX: _____
SERVICE: _____	

Appendix F

Attestation of Compliance

To be completed by all Proposing Firms and All Individual Subcontractors

(Please check each box, sign this form and submit it with your response.)

Name of individual completing this form: _____

The form is submitted on behalf of firm: _____

Name of RFP: **SFMTA 2014-13**

1. I attest that I and all members of the firm listed above will and have complied to date with Section VI(O) of the above RFP. Yes

2. I understand that if my firm or any members of the firm listed above are found to be in violation of Section VI(O) of the above RFP, this will disqualify my firm and any Proposal in which my firm is named from further consideration. Yes

I have entered required responses to the above questions to the best of my knowledge and belief.

Signature: _____

Date: _____

Appendix G

To be completed by all Proposing Firms and All Individual Subcontractors

Certification Regarding Debarment, Suspension, and Other Responsibility Matters

By signing and submitting its Proposal, the Proposer or proposed subcontractor certifies as follows:

(1) _____
(Proposer or Proposed Subcontractor Business Name)

certifies to the best of its knowledge and belief that it and its principals:

- a. Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from contracting with any federal, state or local governmental department or agency;
- b. Have not within a three-year period preceding the date of this Proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) contract; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)b of this certification; and
- d. Have not within a three-year period preceding the date of this Proposal had one or more public contracts (federal, state, or local) terminated for cause or default.

(2) Where the firm executing this RFP Appendix E is unable to certify to any of the statements in this certification, such firm shall attach a detailed explanation of facts that prevent such certification.

(3) The certification in this clause is a material representation on fact relied upon by the San Francisco Municipal Transportation Agency (SFMTA).

As the authorized certifying official, I hereby certify that the above-specified certifications are true.

Business Name

Authorized Representative Name (print)

Authorized Representative Title (print)

Authorized Representative Signature

Date

Appendix H

To be completed by all Proposing Firms and All Individual Subcontractors

Certification Regarding Lobbying

(Proposer or Proposed Subcontractor Business Name)

Certifies that it will not and has not paid any person or organization for influencing or attempting to influence a member of the San Francisco Municipal Transportation (“SFMTA”) Agency Board of Directors, or an officer or employee of the SFMTA in connection with the contract to be awarded pursuant to this Request for Proposals, except as expressly authorized in this Request for Proposals. The Proposer or proposed subcontractor submitting this certification shall also disclose the name of any lobbyist registered under Article II of the San Francisco Campaign and Governmental Conduct Code who has made lobbying contacts on its behalf with respect to the contract to be awarded pursuant to this Request for Proposals.

This certification is a material representation of fact upon which reliance was placed for the purposes of the SFMTA’s evaluation of Proposals and award of a contract pursuant to the Request for Proposals. Submission of this certification is a prerequisite for submitting a Proposal responsive to the Request for Proposals.

Following submission of Proposals with this signed certification, any firm who 1) pays any person or organization for influencing or attempting to influence a member of the San Francisco Municipal Transportation Agency Board of Directors, or an officer or employee of the SFMTA in connection with the contract to be awarded pursuant to this Request for Proposals, except as expressly authorized in the RFP, 2) fails to disclose the name of any lobbyist registered under Article II of the San Francisco Campaign and Governmental Conduct Code who has made lobbying contacts on its behalf with respect to the contract to be awarded pursuant to this Request for Proposals, or 3) pays or agrees to pay to any SFMTA employee or official or to any member of the selection panel or other person involved in the making of the contract on behalf of the SFMTA any fee or commission, or any other thing of value contingent on the award of a contract, will disqualify any Proposal in which that firm is named as a prime contractor, joint venture partner or subcontractor from the selection process.

Enclosure 3—List of Potential Bidders

CBS Outdoor

Richard Ament
CBS Outdoor
Senior Vice President, Business Development, Displays Division
405 Lexington Avenue
New York, NY 10174
Phone: (212) 297-6530
Email: richard.ament@cbsoutdoor.com

Clear Channel Outdoor

Robert Schmitt
President/General Manager
Northern California Region
Clear Channel Outdoor
555 12th Street, Suite 950
Oakland, CA 94607
Phone: (510) 446-7210
Email: robertschmitt@clearchannel.com

JCDecaux

Francois Nion
Executive Vice President
JCDecaux
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San Francisco, CA 94124
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Email: Francois.Nion@jcdecauxna.com

Titan Outdoor

Don Allman
President and Chief Executive Officer
Titan Outdoor
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New York, NY 10017
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Terry Powers
General Manager, San Francisco
Titan Outdoor
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Email: terry.powers@titan360.com

Lamar

Sean Reilly
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Van Wagner

Greg Donner
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Email: gdonner@vanwagner.com

Emily Rukin
Vice President, Development
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P3 Global Management Inc.

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Vice President
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IMG Consulting

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IMG Consulting
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SRS Consulting

Steve Shinn
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Corte Madera, CA 94925
Phone: (415) 309-0503
Email: srshinn4@comcast.net

Allvision

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Stott Outdoor

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Chico, CA 95927
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Vector Media

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