REQUEST FOR PROPOSALS

#2020-01

City of Vacaville Public Transit Advertising Services

RFP Release
April 20, 2020

Proposal Submittal Due Date
May 11, 2020
at 5:00

To

Lori DaMassa, Transit Coordinator
City of Vacaville
Public Works Department
lori.damassa@cityofvacaville.com

By electronic submission via the following link:

Please click here to submit your proposal.

All referenced documents for this project can be downloaded at:
http://www.citycoach.com
Request for Proposals

City of Vacaville Public Transit Advertising Services

A. INTRODUCTION

The City of Vacaville (hereafter “CITY”) is requesting proposals from qualified advertising firms with a minimum of three (3) years of recent experience in marketing, servicing, and maintaining transit advertising to maximize the CITY’s revenue generating opportunities by the sale of transit related advertising media. The CITY shall enter into a contract with the successful proposer with whom the City awards an agreement (hereafter “CONTRACTOR”) for a period of three (3) years, with two one-year extension options. In addition to the sale of advertising space, this solicitation also seeks to obtain servicing and maintenance of the advertising space. There is no guarantee that the mix of the CITY’s vehicle fleet will be stable over the term of any contract. The advertising space available for marketing pursuant to this Request for Proposal (hereafter “RFP”) consists of signage on space inside and outside transit agency buses/vehicles, bus shelters, and at transit centers. The advertising opportunities include approximately 20 vehicles, 35 shelters and 2 transit centers. The successful proposal should display creativity in identifying additional advertising opportunities beyond those enumerated herein. Each proposer should develop and submit a service and marketing plan designed to meet the needs of the CITY, as well as identifying any collateral marketing opportunities that can be made available in conjunction with this RFP. Each proposal will be evaluated on the basis of the rating criteria published in this RFP and the plans should address those elements.

Vacaville City Coach

The CITY is a municipal corporation of approximately 97,000 residents located 52 miles north-east of San Francisco. Vacaville City Coach is a municipal bus transit system operated by the CITY’s Public Works Department. All aspects of City Coach’s management, planning, and marketing are conducted by the CITY’s employees. Transit operations are contracted through a service agreement with First Transit, Inc.

Vacaville City Coach operates a fleet of eighteen (18) 35-foot, low-floor, compressed natural gas buses for fixed route service. Each of these buses has 30 seats. Demand response service is provided by seven (7) 15-foot cutaway vans with eight seats.

Most routes begin and end at the Vacaville Transportation Center (located at Allison Drive at Ulatis Drive), which functions as one of two main transfer centers with the other being in the CITY’s downtown area at the Downtown Transit Plaza (located at East Monte Vista Avenue at Cernon Street).

Vacaville City Coach provides service on five (5) fixed-routes and one deviated fixed-route (serving the Leisure Town Senior Community) with a peak vehicle pull-out of 13 vehicles. The majority 30 minute frequency, pulse-based system combines both bi-directional linear routes as well as one-directional loop routes with the Route 5 being the heaviest traveled route.
The City Coach system is largely coverage-oriented, with uniform headways operated throughout the majority of the system. Information on City Coach routes and schedules, as well as fare information and the City Coach system map, can be accessed at: http://www.citycoach.com.

B. SCOPE OF WORK

The CONTRACTOR will provide any and all Transit Advertising Services (set forth below) in order to generate the maximum amount of revenue possible from the sale and placement of advertising on buses and transit related facilities, subject to the CITY adopted, “City Coach Transit Advertising Policy”.

Services shall include, but not be limited to:

1. The sale, placement, and installation of advertisements in and/or on the CITY’s selected bus vehicle fleet, selected bus shelters, and passenger facilities:
   a. Bus vehicle advertising can be placed on the CITY’s bus vehicles, bus shelters and Passenger Facilities listed within Attachment 1, entitled, “City of Vacaville Bus Fleet, Bus Shelter, and Passenger Facility Inventory List”.
   b. Permitted advertising that can be placed on the CITY’s bus vehicles, bus shelters, and at Passenger Facilities is detailed within Attachment 2, entitled, “Permitted Advertising Products for City Buses, Bus Shelters, and Passenger Facilities”.
   c. For bus interior advertising, the CITY reserves the unilateral right to place advertisements for self-promotions or general welfare public service announcements at no charge. Fifty percent (50%) of the interior bus advertising space of each bus shall be reserved for this purpose.

2. Servicing and maintenance of the advertising space and provision of installation of any needed display racks is the responsibility of the CONTRACTOR. Any damage caused to the exterior/interior of buses, bus shelters, and passenger facilities, such as, but not limited to, paint discoloration caused by direct application of advertising shall be repaired by the CONTRACTOR to CITY’s satisfaction, at the CONTRACTOR’s sole cost and expense.

3. The intent of this RFP is to maximize the revenues generated by the sale of transit-related advertising media and make every effort to sell the maximum amount of space that is available. The CONTRACTOR should also display creativity in identifying additional advertising opportunities beyond those already noted.

4. The CONTRACTOR shall arrange with CITY convenient times for inspecting, installing, maintaining, repairing, removing, and replacing advertising signs on CITY bus vehicles.
5. The CONTRACTOR shall remove outdated advertising, and advertising that, in CITY’s sole discretion, violates CITY’s advertising guidelines adopted by the City Council (see Item 7 below).

6. CONTRACTOR’s vendor’s personnel shall wear a vendor-issued distinguishable name tag/identification card while working at all CITY locations.

7. CITY has adopted advertising guidelines (Attachment 3, entitled “Vacaville City Coach Transit Advertising Policy”), setting forth standards of acceptability for advertising on CITY buses (interior and exterior), bus shelters, and at transit passenger facilities. The Vacaville City Coach Transit Advertising Policy formally establishes criteria for which advertising displays on or at CITY transit property can be displayed. The CONTRACTOR shall adhere to these standards and confer with the CITY designated Point of Contact before accepting any advertising for placement. The determination of whether specific advertisements and/or artwork are consistent with the Transit Advertising Policy shall be at the sole discretion of CITY.

8. The CONTRACTOR shall be solely responsible for any and all cost or expenses related to soliciting, producing, creating, installing, maintaining, servicing, repairing, or replacing any advertisements.

9. INCLUSIONS: Advertising opportunities included in this RFP not previously addressed that CITY may entertain proposals on include:

   a. ELECTRONIC ADVERTISING INFORMATIONAL SIGNS.
   b. WEBSITE: Banner advertising or similar on websites.
   c. OTHER MEDIA. Fare media, schedules, time tables etc.
   d. KIOSKS: Kiosk advertising at facilities that are compliant with all local regulations.

C. PROPOSAL REQUIREMENTS AND SUBMITTAL PROCESS

To be considered, your proposal must be received no later than 5:00 PM on May 11, 2020. Please submit proposals to the attention of:

Lori DaMassa, Transit Coordinator

Electronic submission of proposals will only be accepted via the following link:
Please click here to submit your proposal.

Only proposals received as of the proposal due date and time will be considered timely. Proposals and modifications received after the due date and time will be rejected as late.

Proposals will clearly articulate how those services identified in the scope of work will be provided, provide costs for services, provide projected CITY’s share of net revenues, vendor qualifications, experience, references, and all of the information requested herein. Proprietary data or trade secrets should be clearly identified as such in your proposal.
Proposal Postponement, or Addendum: The CITY reserves the right to revise or amend the specifications or any other part of the proposal up to the time set for opening. Such revisions and amendments, if any, shall be announced by addendum to all submitting parties. If revisions and amendments require changes in services proposed, the date set for opening of proposals may be postponed by such number of days as in the opinion of the CITY shall enable submitting parties to revise their proposals. The addendum shall include an announcement of the new date, if applicable, for the opening of proposals.

D. EVALUATION OF PROPOSALS

Proposals will be evaluated using the following criteria:

1. Demonstrated understanding of the scope of work (25 possible points);

2. Demonstrated ability to perform the service described/history of providing similar services to comparable entities (25 points);

3. Experience, qualifications, and expertise of the team proposed for the project (30 points);

4. Highest projected CITY’s share of net revenue (15 points); and

5. Willingness to accept the CITY’s contract terms as presented in Attachment 4 (5 points).

The CITY reserves the right, at its sole discretion, to take any of the following actions: waive minor irregularities in any proposals received, reject any and all proposals, cancel the RFP, or modify and re-issue the RFP. Required information to be submitted in the proposal must be current, complete and accurate. Failure to furnish all information requested or to follow the format requested herein may disqualify the proposer, at the sole discretion of the CITY. False, incomplete, misleading, or unresponsive statements in a proposal may also be sufficient cause for a proposal’s rejection. The CITY reserves the right to require more information and clarification of information submitted in the proposal in order to complete the evaluation.

The CITY reserves the right to select the proposal which in its sole judgment best meets the needs of the CITY. The highest projected CITY’s share of net revenue is not the sole criterion for recommending contract award.

E. CITY CONTACTS

All communication regarding the Scope of Work or proposal process should be in writing and directed to Lori DaMassa, Transit Coordinator at: lori.damassa@cityofvacaville.com.
F. ESTIMATED SCHEDULE

<table>
<thead>
<tr>
<th>Date</th>
<th>Milestone</th>
</tr>
</thead>
<tbody>
<tr>
<td>April 20, 2020</td>
<td>Release RFP</td>
</tr>
<tr>
<td>May 11, 2020</td>
<td>Proposals Due</td>
</tr>
<tr>
<td>May 13, 2019</td>
<td>Panel Meets to Screen Proposals</td>
</tr>
<tr>
<td>June 15, 2020</td>
<td>Award of Contract</td>
</tr>
<tr>
<td>July 1, 2020</td>
<td>Start of Work</td>
</tr>
</tbody>
</table>

G. GENERAL PROVISIONS

1. In submitting a proposal, proposers must comply with the performance criteria as set forth in these instructions. All proposals will be reviewed thoroughly prior to any selection to determine if proposers have met all criteria in these proposal conditions. It is essential that proposers read each of the sections carefully and take action where necessary.

2. The award of a contract or contracts under this RFP will be based on competitive negotiated procurement procedures, and proposals submitted in response to this RFP will be subject to negotiation. A CITY Evaluation Committee will review and screen proposals. Proposers submitting responsive proposals may be invited for a subsequent interview and contract negotiation at their own expense.

3. CITY reserves the right to award a contract to a firm solely on the basis of the initial proposal submitted.

4. Progress Reports and Payments: Payment will be made on a calendar-month basis in arrears, based on the hours and expenses for the month invoiced. Invoices will be accompanied by a progress report summarizing work completed during the month and the number of hours provided by each staff person, as well as appropriate documentation for any expenses charged to the project.

5. Non-collusion affidavit: The proposer declares, by signing and submitting a proposal, that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the proposer has not directly or indirectly induced or solicited any other proposer to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any revenue audit consultant or anyone else to put in a sham proposal, or that anyone shall refrain from submitting a proposal; that the auditor has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the financial advisor or any other person or entity, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other revenue audit consultant, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all
statements contained in the proposal are true; and, further, that the proposer has not, directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, proposal depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

6. EEOC: By submitting a proposal, the proposer certifies that: a) the proposer does not discriminate against any employee or applicant for employment because of race, religion, sex, age, creed, color disability or national origin; b) the proposer is in compliance with all Executive Orders and federal, state, and local laws regarding fair employment practices and non-discrimination in employment; and c) the proposer agrees to demonstrate positively and aggressively the principle of equal opportunity in employment.

H. PROTESTS

In the event a proposer desires to protest an award, protests shall be resolved in keeping with the City of Vacaville City Purchasing Policy and Procedures Manual, unless further modified herein, in which case the proposer shall follow the modification. Per City of Vacaville Purchasing Policy and Procedures Manual:

1. Definitions

The following terms as may be used in this section are defined below:

a. “Proposal” refers to an offer or proposal as used in the context of a Request for Proposal.

b. “Day” refers to working day of the CITY, Monday through Thursday, and every other Friday*, 8:00 a.m. – 5:30 p.m.

   *Friday Closures 2020: January 3, 17, 31; February 14, 28; March 13, 27; April 10, 24; May 8, 22; June 5, 19; July 3 (holiday), 17, 31; August 14, 28; September 11, 25; October 9, 23; November 6, 20, 27 (holiday); December 4, 18, 25 (holiday)

c. “Date of Notification of Award” refers to the calendar date that the CITY places in the US Mail an official letter informing each submitting proposer which proposing firm, corporation, partnership or individual was selected and awarded an agreement.

d. “File” or “submit” refers to date of receipt by CITY of protest materials.

e. “Interested Party” means a proposer whose direct economic interest would be affected by the award of an agreement, or by failure to award an agreement.

f. “Protester” refers to an interested party filing a protest or appeal.
2. Right to Protest

Any proposer who is aggrieved in connection with the award of an agreement may protest to the Buyer or Director of Finance or designee. Protests must be submitted in writing to the Buyer or Director of Finance or designee, 650 Merchant Street, Vacaville, California 95688 before 4:30 p.m. of the tenth day following the Proposal Due Date, or before 4:30 p.m. the day before the scheduled award of agreement, whichever occurs first. Protesters are responsible for ensuring that their timely written protests are received by the time limits specified above. Any protests that are not timely received shall be returned unopened. **Protests and appeals which are not submitted in accordance with these procedures will not be considered by the CITY.** Protests must follow the procedures and the timeline described in this Section H.

**Protests will not be considered for the following reasons:**
- Proposer’s failure to follow protest procedures (i.e. content and time requirements).
- After the agreement is awarded.
- Claims lacking merit.

Protests of award must be filed in writing with CITY at:

City of Vacaville  
Administrative Services Department  
650 Merchant Street  
Vacaville, CA 95688  
Attn: Proposal Protest

Protest shall:

1. Include the name and address of the Protester.
2. Identify the subject proposal/project.
3. Provide a statement of the grounds for protest.
4. Include all relevant information and supporting documentation.

In the case of a protest concerning the content and/or procedures relating to this RFP, CITY shall review the protest and render a decision addressing each issue raised in the protest within five (5) days. This decision shall be disseminated in an addendum to the RFP. **CITY’s decision shall be final.**

3. Authority to Resolve Protests

The CITY’s Buyer shall review all protests and communicate his or her decision in writing to the CITY’s Director of Finance or designee. If a protest is not resolved to the satisfaction of the aggrieved, the aggrieved may appeal to the Director of Finance or designee to present his or her grievance.
Protests shall be submitted to the Director of Finance or designee within ten (10) days of a written decision of the Buyer. The Director of Finance or designee shall review and resolve the appeal. The aggrieved party may appeal the decision of the Director of Finance or designee to the City Manager or designee. A request for this appeal to the City Manager or designee must be made in writing within ten (10) days of the date of the decision of the Director of Finance or designee.

Except in cases where the project is Federal Transit Administration (FTA) funded, the decision of the City Manager or designee regarding the protest and the award of contract shall be final and shall be given in writing and submitted to the Protestor.

4. Stay of Procurements during Protest

An aggrieved party may request a stay of award prior to award of the contract. Upon notification of a request for a stay to the Buyer, the proposed acquisition or award shall not proceed until the protest has been resolved, unless the City Manager or designee makes a written determination that continuation of the RFP process or the award of the agreement without delay is necessary to protect life, health, safety, or property of the CITY's citizens.

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Attachments

Attachment 1: City of Vacaville Bus Fleet, Bus Shelter, and Passenger Facility Inventory List

Attachment 2: Permitted Advertising Products for City Buses, Bus Shelters, and Passenger Facilities

Attachment 3: Vacaville City Coach Transit Advertising Policy

Attachment 4: City of Vacaville Public Transit Advertising Services Professional Services Agreement (SAMPLE)
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### ATTACHMENT 1

**CITY OF VACAVILLE BUS FLEET, BUS SHELTER AND PASSENGER FACILITY INVENTORY LIST**

Advertising may be placed on/in the following CITY buses:

<table>
<thead>
<tr>
<th>City Vehicle Number</th>
<th>Vehicle Model</th>
</tr>
</thead>
<tbody>
<tr>
<td>921</td>
<td>2009 New Flyer C35LF, Fixed Route</td>
</tr>
<tr>
<td>922</td>
<td>2009 New Flyer C35LF, Fixed Route</td>
</tr>
<tr>
<td>923</td>
<td>2009 New Flyer C35LF, Fixed Route</td>
</tr>
<tr>
<td>924</td>
<td>2009 New Flyer C35LF, Fixed Route</td>
</tr>
<tr>
<td>925</td>
<td>2009 New Flyer C35LF, Fixed Route</td>
</tr>
<tr>
<td>926</td>
<td>2009 New Flyer C35LF, Fixed Route</td>
</tr>
<tr>
<td>927</td>
<td>2009 New Flyer C35LF, Fixed Route</td>
</tr>
<tr>
<td>928</td>
<td>2009 New Flyer C35LF, Fixed Route</td>
</tr>
<tr>
<td>929</td>
<td>2009 New Flyer C35LF, Fixed Route</td>
</tr>
<tr>
<td>930</td>
<td>2009 New Flyer C35LF, Fixed Route</td>
</tr>
<tr>
<td>932</td>
<td>2011 New Flyer C35LFR, Fixed Route</td>
</tr>
<tr>
<td>933</td>
<td>2011 New Flyer C35LFR, Fixed Route</td>
</tr>
<tr>
<td>936</td>
<td>2013 New Flyer Xcelsior, Fixed Route</td>
</tr>
<tr>
<td>937</td>
<td>2013 New Flyer Xcelsior, Fixed Route</td>
</tr>
<tr>
<td>938</td>
<td>2013 New Flyer Xcelsior, Fixed Route</td>
</tr>
<tr>
<td>961</td>
<td>2008 BusWest, Paratransit (Tail Advertising ONLY)</td>
</tr>
<tr>
<td>962</td>
<td>2008 BusWest, Paratransit (Tail Advertising ONLY)</td>
</tr>
<tr>
<td>963</td>
<td>2014 ARBOC, Paratransit (Tail Advertising ONLY)</td>
</tr>
<tr>
<td>964</td>
<td>2014 ARBOC, Paratransit (Tail Advertising ONLY)</td>
</tr>
<tr>
<td>965</td>
<td>2014 ARBOC, Paratransit (Tail Advertising ONLY)</td>
</tr>
</tbody>
</table>
Advertising may be placed on the following CITY Bus Shelters:

<table>
<thead>
<tr>
<th>Main Street/Cross Street</th>
<th>Site Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Merchant Street</td>
<td>In front of City Hall</td>
</tr>
<tr>
<td>Dobbins and Kendal Street</td>
<td>In front of McBride Senior Center</td>
</tr>
<tr>
<td>Davis Street</td>
<td>Inside Park and Ride lot</td>
</tr>
<tr>
<td>Davis Street and Hickory Street</td>
<td>Next to Park and Ride lot</td>
</tr>
<tr>
<td>Davis Street</td>
<td>Next to Outback Steakhouse</td>
</tr>
<tr>
<td>Alamo Drive and Marshall Road</td>
<td>Next to Three Oaks Community Center</td>
</tr>
<tr>
<td>Alamo Drive</td>
<td>Next to Saint Ann’s Apartment Complex</td>
</tr>
<tr>
<td>Alamo Drive and Peabody Road</td>
<td>Next to Rose Garden Apartment Complex</td>
</tr>
<tr>
<td>Alamo Drive and Marna Drive</td>
<td>Next to residential homes on Marna Drive</td>
</tr>
<tr>
<td>Vanden Road and Marshall Road</td>
<td>Next to park adjacent to Callison Elementary School</td>
</tr>
<tr>
<td>Davis Street</td>
<td>In front of Winco Foods</td>
</tr>
<tr>
<td>Nut Tree Road and Alamo Drive</td>
<td>At Raley’s Shopping Center</td>
</tr>
<tr>
<td>Nut Tree Road and Alamo Drive</td>
<td>In front of Autumn Leaves Senior Apartment Complex</td>
</tr>
<tr>
<td>Nut Tree Road and Elmira Road</td>
<td></td>
</tr>
<tr>
<td>Nut Tree Road and Yellowstone Drive</td>
<td></td>
</tr>
<tr>
<td>Nut Tree Road (421 Nut Tree Road)</td>
<td>In front of North Bay Medical Offices</td>
</tr>
<tr>
<td>Yellowstone and Ranier Circle</td>
<td></td>
</tr>
<tr>
<td>Yellowstone and Lassen Circle</td>
<td></td>
</tr>
<tr>
<td>Yellowstone and Glacier Circle</td>
<td></td>
</tr>
<tr>
<td>Orange Drive and Lawrence Drive</td>
<td>Next to Senior Manor Apartment Complex</td>
</tr>
<tr>
<td>Leisure Town Road</td>
<td>In front of Casa Grande Mobile Home Park</td>
</tr>
<tr>
<td>Solano Community College</td>
<td>Vacaville Campus</td>
</tr>
<tr>
<td>Vaca Valley Parkway</td>
<td>At New Horizons Way (inside panel only)</td>
</tr>
<tr>
<td>Vaca Valley Parkway</td>
<td>At N. Village Parkway (Inside panel only)</td>
</tr>
<tr>
<td>Elmira Road and Aegean Way</td>
<td>Near the AM/PM store</td>
</tr>
<tr>
<td>Ulatis Cultural Center</td>
<td>Next to Library on East side of complex</td>
</tr>
<tr>
<td>East Monte Vista Ave.</td>
<td>In front of Best Buy</td>
</tr>
</tbody>
</table>
Monte Vista Avenue and Brown Street only) W. J. Carroll Government Bldg. (West-side panel
Browns Valley Parkway and Tipperary Dr. In front of Millennium Sports Club
Markham Street and Monte Vista Ave. Across from Lucky store
Helen Power and Burton Next to Wal-Mart
Helen Power and Burton Adjacent to Sam’s Club
Harbison Drive In front of Burlington Coat factory
Harbison Drive In front of Safeway
Nut Tree Road and Summerfield Opposite of Vaca Valley Hospital

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ATTACHMENT 2

PERMITTED ADVERTISING PRODUCTS FOR CITY BUSES, BUS SHELTERS,
AND PASSENGER FACILITIES

The following types of on bus advertising products shall be permitted on CITY buses.

- KING DISPLAYS (30” x 144”)
- QUEEN DISPLAYS (30” x 88”)
- TAIL DISPLAYS (21” x 70”)
- SUPERTAIL (2’6” x 7’)
- FULL BACK (9’ x 7’)
- EMPRESS (42” x 114”)
- SUPER KING (30” x 216”)
- KONG (3’6” x 19’)
- SUPER SQUARE (9’ x 12’)
- KING KONG (9’ x 19’)
- HEADLINER (1’ x 40’)
- EXTENTIONS (sizes vary)
- INTERIOR CARDS (10.5” x 36”)
- BUS SHELTERS (One (1) advertising panel, 42” wide by 70” tall)

The following types of exterior bus advertising products shall be permitted only by pre-approval of CITY on a case by case basis. CITY will allow a maximum of six (6) FULL SIDE or FULL WRAP or combination of the two advertising types on CITY buses designated as Fixed Route.

- FULL SIDE (9’ x 35’)
- FULL WRAP (2 full side + full back)

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The following types of advertising products shall be permitted on CITY bus shelters.

- **BUS SHELTER ADVERTISING PANEL**  (42’ x 72”)

The following types of advertising products shall be permitted on CITY kiosks at Transit Passenger Facilities.

- **BUS SHELTER ADVERTISING PANEL**  (42’ x 72”)

Advertising may be placed on the following CITY kiosks at Transit Passenger Facilities:

**Downtown Transit Plaza**, West Monte Vista Ave. and Cernon Street

There are a total of four, three (3) panel advertising kiosks located at the four corners of this site. Contractor is permitted to install advertising on two (2) of the three panels on three-panel kiosks.

There are a total of four, two (2) panel advertising kiosks located in the center of the site. Contractor is permitted to install advertising on one (1) panel, on each of the two-panel kiosks.
Vacaville Transportation Center, 1500 Allison Drive

There are a total of four, three (3) panel advertising kiosks at this site. Contractor is permitted to install advertising on one (1) panel, on each of the three-panel kiosks.
VACAVILLE CITY COACH TRANSIT ADVERTISING POLICY

The City of Vacaville ("City") provides public transportation services ("City Coach") within the City of Vacaville.

The City is engaged in the sale of advertising in and upon the property and rolling stock of the City’s transit fleet ("Transit Facilities"), consisting of:

1. print advertising on the exterior of the City's buses;
2. print advertising displayed on bus shelters in the City's service area;
3. print advertising on the interior of the City's buses;
4. advertising on the exterior of City's buses in the form of an advertising "wrap".

This Advertising Policy ("Policy") shall apply to the sale of all forms of advertising on all Transit Facilities owned and/or managed by the City.

I. PURPOSE

The City, in its sole discretion, will make space on or at its Transit Facilities available for limited types of advertising ("Permitted Advertising"). In adopting this Policy that allows limited types of advertising on or at its Transit Facilities, the City does not intend to create a public forum for public discourse or expressive activity or a forum for all types of advertising. The City's acceptance of advertising does not provide or create a general public forum for expressive activities. In keeping with its proprietary function as a provider of public transportation, the City does not intend its acceptance of advertising to convert its Transit Facilities into open public forums for public discourse and debate. Rather, as noted below, the City's fundamental purpose and intent is to accept advertising as an additional means of generating revenue to support its transit operations. In furtherance of that discreet and limited objective, the City retains strict control over the nature of the advertisements accepted for posting on or at its Transit Facilities and maintains its advertising space as a limited public forum. "(A) city transit system has discretion to develop and make reasonable choices concerning the type of advertising that may be displayed in its vehicles." Lehman v. Shaker Heights, 418 U.S. 298, 303 (1974).

This Policy advances the City's revenue-generating objective by prohibiting advertisements that could detract from that goal by creating substantial controversy, interfering with and diverting resources from transit operations and/or posing significant risks of harm, inconvenience, or annoyance to transit passengers, operators and vehicles. Such advertisements create an environment that is not conducive to achieving increased revenue for the benefit of the transit system or to preserving and enhancing the security, safety, comfort and convenience of its operations. The viewpoint neutral restrictions in this Policy thus foster the maintenance of a professional advertising environment that maximizes advertising revenue.

This policy is intended to provide clear guidance as to the types of advertisements that will enable the City to generate revenue and enhance transit operations. Further, by not allowing the types of advertising specified in Section III below, the City will: (a) maintain a professional advertising environment that maximizes advertising revenues and minimizes interference with or disruption of the transit system; and (b) continue to build and retain transit ridership.

Vacaville City Coach Transit Advertising Policy
September 2011
II. PERMITTED ADVERTISING

A. Exterior Advertising

The display of Permitted Advertising on the exterior of the Transit Facilities ("Exterior Advertising") is intended to supplement fare revenue and other income that funds the City's transit operations and promotes the City's transit operations. In order to realize the maximum benefit from the sale of advertising space, the City’s advertising program must be managed in a manner that will procure as much revenue as practicable, while ensuring that the advertising is of a type that does not discourage the use of the transit system, does not diminish the City's reputations in the community or the good will of their patrons, and is consistent with the principal purpose of providing safe and efficient public transportation. To attain these objectives, the City establishes the following regulations, which govern Exterior Advertising. Exterior Advertising permitted under this Section shall not contain displays or messages that are not permitted under Section III, below.

Exterior Advertising includes the following categories of advertisements:

1. **Commercial Advertising.** "Commercial Advertising" is advertising for which the sole purpose is to sell products, goods or services for a profit. Commercial advertising does not include advertising that combines a commercial message with a message that is not permitted under this Policy, e.g. an advertisement that offers a product for sale and promotes the election of a candidate for public office.

2. **Transit Operations of City Coach.** "Transit Operations Advertising" is advertising that advertises or promotes City Coach, such as the use of its transit services.

B. Interior Advertising

The City recognizes that passengers are a captive audience to advertisements that are posted on the interior of the City's buses ("Interior Advertising"). The City desires not to subject its passengers to advertisements relating to elections, politics, religion, or issues over which public opinion may differ because such advertisements may offend some passengers, which could discourage their patronage and, in turn, decrease transit revenues.

The City, therefore, establishes the following regulations governing Interior Advertising. As with Exterior Advertising, Interior Advertising permitted under this Section shall not contain displays or messages that are not permitted under Section III, below.

Interior Advertising includes the following categories of advertising:

1. **Public Service Advertising.** "Public Service Advertising" is advertising by governmental entities, academic institutions or tax-exempt nonprofit organizations that relates to community, art, cultural, educational, health, or safety events, programs and/or messages. Public Service Advertising does not include advertisements that include/combines Public Service Advertising, Commercial Advertising or contain any direct or indirect reference to religious, political or issue advocacy. Upon the City's request, nonprofit entities must document their tax-exempt status. Unless the source of the Public Service Advertising is obvious from the content or copy, the advertisement must specifically identify the advertisement's sponsor.

2. **Transit Operations of City Coach.** "Transit Operations Advertising" is advertising that promotes City Coach, such as the use of its transit services.
3. **Cross-promotional Advertising.** "Cross-promotional Advertising" is advertising in which the City collaborates with for-profit entities to promote the use of City Coach as a means of travel to a specific event or activity. Cross-promotional Advertising does not include advertising that combines a cross-promotional message with a message that is not permitted under this Policy, e.g. an advertisement that promotes the use of City Coach as a means of travel to a political or religious event.

**III. EXCLUDED ADVERTISING APPLICABLE TO EXTERIOR AND INTERIOR ADVERTISING**

Exterior Advertising and Interior Advertising cannot be displayed or maintained on Transit Facilities if information contained in the advertisement includes one or more of the following:

1. False, misleading, or deceptive statements or information.
2. Statements or information that is defamatory or likely to hold up to scorn or ridicule a person or group of persons.
3. Obscene or pornographic materials, depictions, or statements.
4. Statements or information that advocate imminent lawlessness or violent action.
5. Statements or information that promote alcohol or tobacco products or their use.
6. Religious Advertisements, as defined below.
7. Political Advertisements, as defined below.
8. Intellectual property infringement, including piracy or infringement of copyright, trade dress, service mark, title or slogan.
9. Unauthorized Endorsements, as defined below.

For purposes of this Policy:

"Religious Advertisements" means advertisements that contain any direct or indirect reference to religion, or to any religion, or to any deity or deities, or which includes the existence, nonexistence or other characteristics of any deity or deities, or to any religious creed, denomination, belief, tenet, cause or issue relating to (including opposing or questioning) any religion. This prohibition on Religious Advertisements includes, but is not limited to, the depiction of text, symbols, or images commonly associated with any religion or with any deity or deities, or any religious creed, denomination, belief, tenet, cause or issue relating to including opposing or questioning) any religion.

"Political Advertisements" means advertisements that refer to a particular ballot question, initiative, petition, referendum, candidate for office, political party, or viewpoint or that expresses or advocates opinions or positions upon any of the foregoing.

"Unauthorized Endorsements" means advertising that implies or declares that the City or its entities, officials, or employees endorses a product, service, viewpoint, event, person, or program. This prohibition on Unauthorized Endorsements does not include or apply to advertising for a service, event or program for which the City is an official sponsor, co-sponsor or participant.
IV. ADMINISTRATION AND ENFORCEMENT OF POLICY

A. Review by Contractor

The City may incorporate this Policy into any of its advertising management contracts. The contracting party to such contract ("Contractor") shall not submit for display on or in the Transit Facilities any advertisement that does not comply with the standards or provisions of this Policy. If the Contractor is in doubt whether an advertisement complies with the standards or provisions of this Policy, the Contractor shall notify the City's Transit Manager, or his/her designee of the uncertainty before submitting the advertisement for display and the specific provision or standard of this Policy that the Contractor is uncertain of.

B. Review by Transit Manager, or Designee

If the Contractor determines that an advertisement may not comply with the standards or provisions of this Policy, the Contractor shall promptly send the advertisement and supporting information (including the name of the advertiser, the size and number of the proposed advertisements, the dates and locations of the proposed advertisements, and a notation of the standard or provision of concern) to the Transit Manager, or his/her designee, for review. The Transit Manager, or his/her designee, shall review the advertisement and supporting information to determine whether the advertisement complies with this Policy. If the Transit Manager, or his/her designee determines that the advertisement does not comply with this Policy, he/she shall specify in writing the standard or provision with which the advertisement does not comply, and shall so notify the Contractor.

C. Notification to Advertiser

The Contractor will promptly notify the advertiser in writing of the Transit Manager's decision to reject the advertisement, together with a copy of this Policy, and will specify the standard or provision that the advertisement fails to comply with.

D. Appeal to Director of Public Works

The Transit Manager's decision to reject an advertisement may be appealed by the advertiser to the City's Public Works Director, or his/her designee, by providing written notification of the appeal within fifteen (15) calendar days of the date of Contractor's notice. The Director of Public Works shall allow the advertiser and the Transit Manager, or his/her designee, to present any relevant argument or evidence they wish to offer. The Director of Public Works' decision of the appeal shall be final.
ATTACHMENT 4

City of Vacaville Public Transit Advertising Services
Professional Services Agreement
(SAMPLE AGREEMENT TO FOLLOW)
AGREEMENT FOR CONTRACT SERVICES
BETWEEN THE CITY OF VACAVILLE AND
____________________

FOR
TRANSIT ADVERTISING ON CITY COACH BUSES, BUS SHELTERS, AND TRANSIT PASSENGER FACILITIES

THIS AGREEMENT is made and entered into on the date last written below, by and between the CITY OF VACAVILLE, a municipal corporation (hereinafter "CITY"), and __________, a California corporation, (hereinafter “CONTRACTOR”).

RECITALS

The purpose for which this AGREEMENT is made, and all pertinent recitals, are listed on EXHIBIT A, entitled "RECITALS", which is attached hereto and incorporated herein.

THE PARTIES HEREBY AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES.

CONTRACTOR shall perform those services specified in detail in EXHIBIT B, entitled "SCOPE OF SERVICES", which is attached hereto and incorporated herein.

SECTION 2. TERM OF AGREEMENT.

The term of this AGREEMENT shall be from (check one):

☐ the date of this AGREEMENT last written below to ________, inclusive, subject to the provisions of SECTION 11 of this AGREEMENT.

☒ to __________, inclusive, subject to the provisions of SECTION 11 of this AGREEMENT. The Term of this AGREEMENT may be extended for two additional one-year option terms upon mutual agreement of the Parties at least sixty (60) days prior to the then-current expiration date.

SECTION 3. SCHEDULE OF PERFORMANCE.

CONTRACTOR shall provide services on an on-going basis throughout the TERM of this AGREEMENT. Time is of the essence in this AGREEMENT.

SECTION 4. COMPENSATION.

This is a revenue contract. Throughout the term of the AGREEMENT, on a monthly basis, CITY shall receive a 45% Revenue Share.
The Revenue Share calculation shall be based on net advertising space sales. CITY shall receive 45% of the net advertising space sales. The industry standard for the definition of net advertising space sales will apply, i.e. gross sales revenue less all art, production and installation fees (“production costs”).

The rate and schedule of payment from CONTRACTOR to CITY are set out in EXHIBIT C, entitled “COMPENSATION”, which is attached hereto and incorporated herein.

SECTION 5. METHOD OF PAYMENT.

CONTRACTOR shall pay CITY on a monthly basis on or before the 20th of the month for the previous month’s Revenue Share. Each payment shall be accompanied by a statement setting forth the Gross Revenues, the Revenue Share and all production billings for the payment period.

SECTION 6. INDEPENDENT CONTRACTOR.

It is understood and agreed that CONTRACTOR (including CONTRACTOR’s employees), in the performance of the work and services agreed to be performed by CONTRACTOR, shall act as and be an independent contractor and not an agent or employee of CITY; and, as an independent contractor, neither CONTRACTOR nor CONTRACTOR’s employees shall have any rights to retirement benefits or other benefits that accrue to CITY’s employees and CONTRACTOR hereby expressly waives any claim it or its employees may have to any such benefits or rights.

SECTION 7. ASSIGNABILITY.

The parties agree that the expertise and experience of CONTRACTOR are material considerations for this AGREEMENT. Other than as set forth in Section 11 below, CONTRACTOR shall not assign or transfer any interest in this AGREEMENT nor the performance of any of CONTRACTOR’s obligations hereunder, without the prior written consent of CITY, and any attempt by CONTRACTOR to so assign or transfer this AGREEMENT or any rights, duties or obligations arising hereunder shall be void and of no effect.

SECTION 8. INDEMNIFICATION AND WAIVER OF SUBROGATION.

A. INDEMNITY.

To the fullest extent allowed by law, CONTRACTOR shall indemnify and hold harmless CITY, its officers, officials, employees and volunteers from and against all actions, causes of actions, damages, costs, liabilities, claims, losses, judgments, penalties and expenses of every type and description, including without limitation any fees and/or costs reasonably incurred by CITY’s staff attorneys or contract attorneys and any and all costs,
fees and expenses incurred in enforcing this provision (hereafter collectively referred to as “liabilities”), arising out of or in connection with any negligent act or omission, misconduct or other legal fault of CONTRACTOR, its officers, employees, subcontractors or agents in connection with the performance or nonperformance of this AGREEMENT, whether or not CITY accepted or approved any service or work product performed or provided by CONTRACTOR hereunder, and whether or not such liabilities are litigated, settled or reduced to judgment. In the event that a final decision or judgment allocates liability by determining that any portion of damages awarded is attributable to CITY’s negligence or willful misconduct, CITY shall pay the portion of damages which is allocated to CITY’s negligence or willful misconduct, provided that CITY shall not be liable for any passive negligence of CITY, its officers, officials, employees and volunteers in reviewing, accepting or approving any service or work product performed or provided by CONTRACTOR.

B. OBLIGATION TO DEFEND.

CONTRACTOR shall, upon CITY’s request, defend with counsel approved by CITY (which approval shall not be unreasonably withheld), at CONTRACTOR’s sole cost and expense, any action, claim, suit, cause of action, or portion thereof, which asserts or alleges liabilities resulting from any allegedly negligent act, omission, misconduct, or other legal fault of CONTRACTOR, its officers, employees, subcontractors, or agents in connection with the performance or nonperformance of this AGREEMENT, whether or not such action, claim, suit, cause of action or portion thereof is well founded or lacking in merit.

C. INSURANCE POLICIES; TERMINATION.

Acceptance of insurance certificates or endorsements required under EXHIBIT E of this AGREEMENT does not relieve CONTRACTOR from liability under this SECTION 8 and shall apply to all damages and claims of every kind suffered, or alleged to have been suffered, by reason of CONTRACTOR’s negligence, misconduct, or other legal fault regardless of whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages. CONTRACTOR’s responsibility for such defense and indemnity obligations shall survive the termination or completion of this AGREEMENT for the full period of time allowed by law.

SECTION 9. INSURANCE REQUIREMENTS.

The defense and indemnification obligations of this AGREEMENT are undertaken in addition to, and shall not in any way be limited by, the Insurance obligations contained in this AGREEMENT. CONTRACTOR
agrees to have and maintain the policies of insurance set forth in EXHIBIT E, entitled "INSURANCE", which is attached hereto and incorporated herein. All policies, endorsements, certificates, and/or binders shall be subject to approval by CITY’s Risk Management as to form and content. These requirements are subject to amendment or waiver only if so approved in writing by CITY’s Risk Management. CONTRACTOR agrees to provide CITY project manager with a copy of said policies, endorsements, certificates and/or binders before work commences under this AGREEMENT. The policies shall include a waiver of subrogation endorsement by which CONTRACTOR’s insurer agrees to waive all rights of subrogation against CITY, its officers, officials, employees and volunteers for losses arising from work performed by CONTRACTOR for CITY.

SECTION 10. NONDISCRIMINATION.

CONTRACTOR shall not discriminate in any way against any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age or sexual orientation in connection with or related to the performance of this AGREEMENT.

SECTION 11. TERMINATION.

A. CONTRACTOR or CITY shall have the right to terminate this AGREEMENT, without cause, by giving not less than sixty (60) days' written notice of termination, other than as further set forth below at Section 11.D and Section 11.F.

B. Upon early termination of this AGREEMENT, CONTRACTOR agrees to assign to CITY all advertising contracts on CITY buses and bus shelters, and such contracts and accounts shall thereupon become the property of CITY. For a period of six (6) months following the early termination of this AGREEMENT, CITY agrees to pay CONTRACTOR twenty (20) percent of the Revenue Share from such contracts that extend beyond the early termination of the AGREEMENT. All pertinent contracts, billing and account information for purposes of assigning accounts will be provided by CONTRACTOR to CITY. Upon mutual agreement, CITY and CONTRACTOR may meet in good faith to determine a lump sum payment to CONTRACTOR to reimburse CONTRACTOR for estimated Revenue Share of twenty (20) percent for six (6) months following early termination of this AGREEMENT.

C. If the AGREEMENT is terminated prior to expiration of the term, CONTRACTOR shall be paid its costs as provided in Section 11.B hereinaabove, on work performed up to the time of termination. CITY shall
not be responsible for payment for any work performed after the time of termination. After termination, CONTRACTOR shall promptly submit to CITY its invoice for unrecovered amortized production costs.

D. If CONTRACTOR fails to perform any of its material obligations under this AGREEMENT, in addition to all other remedies provided by law, CITY may terminate this AGREEMENT immediately upon written notice.

E. CITY may terminate this AGREEMENT immediately, upon written notice, if any challenge is made to CITY’s City Coach Advertising Policy, or any federal, state, or local, statute, regulation, ordinance, ruling, determination, order, or direction, invalidates in whole or in part CITY’s City Coach Advertising Policy.

F. If CONTRACTOR plans on filing for any bankruptcy proceeding, any dissolution proceeding, or ceasing to conduct business, CONTRACTOR must immediately notify CITY in writing of such plans, but in no case less than thirty (30) days, prior to any actual bankruptcy or dissolution filing or cessation of conducting business. This AGREEMENT shall automatically terminate upon the written notification to CITY by CONTRACTOR of CONTRACTOR’s intent to file a bankruptcy proceeding, a dissolution proceeding, or cease conducting business.

G. CITY’s Director of Public Works or his/her authorized designee is empowered to terminate this AGREEMENT on behalf of CITY.

H. In the event of termination, CONTRACTOR shall deliver to CITY copies of all reports, documents, and other work performed by CONTRACTOR under this AGREEMENT.

SECTION 12. GOVERNING LAW.

CITY and CONTRACTOR agree that the law governing this AGREEMENT shall be that of the State of California.

SECTION 13. COMPLIANCE WITH LAWS.

CONTRACTOR shall comply with all applicable laws, ordinances, codes and regulations of the federal, state, and local governments.

SECTION 14. CONFIDENTIAL INFORMATION.

All data, documents, discussions, or other information developed or received by or for CONTRACTOR in the performance of this AGREEMENT are confidential and not to be disclosed to any person except with the prior written permission of CITY, or as required by law.
SECTION 15. OWNERSHIP OF MATERIALS.

All reports, documents or other materials developed or discovered by CONTRACTOR or any other person engaged directly or indirectly by CONTRACTOR to perform the services required hereunder shall be and remain the property of CITY without restriction or limitation upon their use by CITY.

SECTION 16. WAIVER.

CONTRACTOR agrees that waiver by CITY of any breach or violation of any term or condition of this AGREEMENT shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition. The acceptance by CITY of the performance of any work or services by CONTRACTOR shall not be deemed to be a waiver of any term or condition of this AGREEMENT.

SECTION 17. CONTRACTOR’S BOOKS AND RECORDS.

A. CONTRACTOR shall maintain any and all ledgers, books of account, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to CITY for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to CONTRACTOR pursuant to this AGREEMENT.

B. CONTRACTOR shall maintain all documents and records which demonstrate performance under this AGREEMENT for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this AGREEMENT.

C. Any records or documents required to be maintained pursuant to this AGREEMENT shall be made available for inspection or audit at any time during regular business hours upon written request by CITY’s City Attorney, City Manager, or a designated representative of either of these officers. Copies of such documents shall be provided to CITY for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at CONTRACTOR’s address indicated for receipt of notices in this AGREEMENT.

D. Where CITY has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of CONTRACTOR’s business, CITY may, by written request by any of the above-named officers, require that custody of such records and documents be given to CITY and that such records and documents shall be maintained in City Hall. Access to such records and documents shall
be granted to any party authorized by CONTRACTOR, CONTRACTOR’s representatives, or CONTRACTOR’s successor-in-interest during regular business hours.

**SECTION 18. CONFLICT OF INTEREST.**

CONTRACTOR shall avoid all conflict of interest or appearance of conflict of interest in the performance of this AGREEMENT.

**SECTION 19. SPECIAL PROVISIONS.**

Special provisions, if any, to this AGREEMENT are specified in EXHIBIT F, entitled, "SPECIAL PROVISIONS", which is attached hereto and incorporated herein.

**SECTION 20. NOTICES.**

All notices and other communications required or permitted to be given under this AGREEMENT shall be in writing and shall be personally served or mailed, postage prepaid and addressed to the respective parties as follows:

**TO CITY:**

Lori DaMassa, Management Analyst
City of Vacaville
650 Merchant Street
Vacaville, CA 95688
ATTENTION: Public Works

**TO CONTRACTOR:**

Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the mail.

**SECTION 21. CLAIMS AGAINST CITY.**

In the event any claim or cause of action is brought against CITY by CONTRACTOR, its officers, employees, subconsultants, subcontractors, or agents in connection with the performance or nonperformance or arising out of or in any way connected to this AGREEMENT or the duties and obligations contemplated herein, CONTRACTOR, its officers, employees, subconsultants, subcontractors, or agents must comply with Vacaville Municipal Code (VMC) Chapter 1.10, as may be amended from time to time. Any claims arising out of
or in any way connected to this AGREEMENT, the performance or non-performance hereof, or the duties and obligations contemplated herein must be presented in writing to CITY no later than six (6) months after the accrual of the cause of action and such claims shall be governed by the provisions of VMC Chapter 1.10, as may be amended from time to time. No lawsuit, complaint, or cause of action arising out of or in any way connected with the AGREEMENT, the performance or non-performance hereof, or the duties and obligations contemplated herein may be brought against CITY, or any officer, employee, board, commission, or authority of CITY, until a written claim has been presented to the CITY Council (by and through the CITY Clerk) and has been acted upon or has been deemed to have been rejected by CITY.

SECTION 22. VENUE.

In the event that suit shall be brought by either party to this AGREEMENT, the parties agree that venue shall be exclusively vested in the state courts of the County of Solano or, where otherwise appropriate, exclusively in the United States District Court, Eastern District of California, Sacramento, California.

SECTION 23. INTERPRETATION.

Each party has reviewed this AGREEMENT and any question of doubtful interpretation shall not be resolved by any rule or interpretation providing for interpretation against the drafting party. This AGREEMENT shall be construed as if both parties drafted it. The captions and headings contained herein are for convenience only and shall not affect the meaning or interpretation of this AGREEMENT.

SECTION 24. COUNTERPARTS AND ELECTRONIC SIGNATURE.

As permitted under the U.S. Electronic Signatures in Global and National Commerce (ESIGN) Act of 2000, and the Uniform Electronic Transactions Act (UETA), the parties hereby agree to conduct this transaction by electronic means. This AGREEMENT may be executed through an electronic signature and may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The parties agree that the electronic signatures appearing on this AGREEMENT are intended by each party using it to have the same force and effect as the use of a manual signature for the purposes of validity, enforceability, and admissibility.
SECTION 24. SIGNATOR’S WARRANTY.

Each party warrants to each other party that he or she is fully authorized and competent to enter into this AGREEMENT in the capacity indicated by his or her signature and agrees to be bound by this AGREEMENT.

SECTION 25. PRIOR AGREEMENTS AND AMENDMENTS.

This AGREEMENT, including all Exhibits attached hereto, represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This AGREEMENT may only be modified by a written amendment duly executed by the parties to this AGREEMENT.

WITNESS THE EXECUTION HEREOF on the day and year last written below.

APPROVED AS TO FORM:  "CITY"

Melinda C.H. Stewart, City Attorney  CITY OF VACAVILLE, a municipal corporation

By:_________________________  By:_________________________
David Nam, Deputy City Attorney II  Shawn Cunningham, Director of Public Works

Dated: ______________________

"CONTRACTOR"

NAME

By: ______________________

NAME, TITLE

Dated:_______________________
EXHIBIT A

RECITALS

WHEREAS, CITY desires to obtain contract services to solicit and install Transit Advertising on City Coach buses, bus shelters, and transit passenger facilities; and

WHEREAS, ___________ has the necessary professional expertise and skill to perform such services.

NOW, THEREFORE, the purpose of this AGREEMENT is to retain ___________ as CONTRACTOR to CITY to perform those services specified in SECTION 1 of this AGREEMENT.
EXHIBIT B

SCOPE OF SERVICES

CONTRACTOR shall provide any and all Transit Advertising Services (set forth below) in order to generate the maximum amount of revenue possible from the sale and placement of advertising on buses and transit related facilities, subject to the City adopted “City Coach Transit Advertising Policy”.

Services shall include, but not be limited to:

1. The sale, placement, and installation of advertisements in and/or on CITY’s selected bus vehicle fleet, selected bus shelters, and passenger facilities:
   a) Bus vehicle advertising can be placed on the CITY bus vehicles, bus shelters and Passenger Facilities listed within Attachment 1, entitled, “City of Vacaville Bus Fleet, Bus Shelter, and Passenger Facility Inventory List”.
   b) Permitted advertising that can be placed on CITY bus vehicles, bus shelters, and at Passenger Facilities is detailed within Attachment 2, entitled, “Permitted Advertising Products for City Buses, Bus Shelters, and Passenger Facilities”.
   c) For bus interior advertising, CITY reserves the right to place advertisements for self-promotions or general welfare public service announcements at no charge. Fifty percent (50%) of the interior bus advertising space of each bus shall be reserved for this purpose.

2. Servicing and maintenance of the advertising space and provision of installation of any needed display racks is the responsibility of the CONTRACTOR. Any damage caused to the exterior/interior of buses, bus shelters, and passenger facilities, such as, but not limited to, paint discoloration caused by direct application of advertising shall be repaired by the CONTRACTOR to CITY’s satisfaction, at the CONTRACTOR’s sole cost and expense.

3. CONTRACTOR shall arrange with CITY convenient times for installing, maintaining, repairing, removing, and replacing advertising signs on CITY bus vehicles.

4. CONTRACTOR shall remove outdated advertising, and advertising that, in CITY’s sole discretion, violates CITY’s advertising guidelines adopted by the City Council (see Item 7 below).

5. CONTRACTOR’S vendor personnel shall wear a vendor-issued distinguishable name tag/identification card while working at all CITY locations.

6. CITY has adopted advertising guidelines (Attachment 3, entitled “Vacaville City Coach Transit Advertising Policy”), setting forth standards of acceptability for advertising on CITY buses (interior and exterior), bus shelters, and at transit passenger facilities. The Vacaville City Coach Transit Advertising Policy formally establishes criteria for which advertising displays on or at...
CITY transit property can be displayed. CONTRACTOR shall adhere to these standards and confer with the CITY designated Point of Contact before accepting any advertising for placement. The determination of whether specific advertisements and/or artwork are consistent with the Transit Advertising Policy shall be at the sole discretion of CITY.

7. CONTRACTOR shall be solely responsible for any and all cost or expenses related to soliciting, producing, creating, installing, maintaining, servicing, repairing, or replacing any advertisements.

[REMAINDER LEFT BLANK INTENTIONALLY]
**ATTACHMENT 1**

**CITY OF VACAVILLE BUS FLEET, BUS SHELTER AND PASSENGER FACILITY INVENTORY LIST**

Advertising may be placed on/in the following CITY buses:

<table>
<thead>
<tr>
<th>City Vehicle Number</th>
<th>Vehicle Model</th>
</tr>
</thead>
<tbody>
<tr>
<td>921</td>
<td>2009 New Flyer C35LF, Fixed Route</td>
</tr>
<tr>
<td>922</td>
<td>2009 New Flyer C35LF, Fixed Route</td>
</tr>
<tr>
<td>923</td>
<td>2009 New Flyer C35LF, Fixed Route</td>
</tr>
<tr>
<td>924</td>
<td>2009 New Flyer C35LF, Fixed Route</td>
</tr>
<tr>
<td>925</td>
<td>2009 New Flyer C35LF, Fixed Route</td>
</tr>
<tr>
<td>926</td>
<td>2009 New Flyer C35LF, Fixed Route</td>
</tr>
<tr>
<td>927</td>
<td>2009 New Flyer C35LF, Fixed Route</td>
</tr>
<tr>
<td>928</td>
<td>2009 New Flyer C35LF, Fixed Route</td>
</tr>
<tr>
<td>929</td>
<td>2009 New Flyer C35LF, Fixed Route</td>
</tr>
<tr>
<td>930</td>
<td>2009 New Flyer C35LF, Fixed Route</td>
</tr>
<tr>
<td>932</td>
<td>2011 New Flyer C35LFR, Fixed Route</td>
</tr>
<tr>
<td>933</td>
<td>2011 New Flyer C35LFR, Fixed Route</td>
</tr>
<tr>
<td>936</td>
<td>2013 New Flyer Xcelsior, Fixed Route</td>
</tr>
<tr>
<td>937</td>
<td>2013 New Flyer Xcelsior, Fixed Route</td>
</tr>
<tr>
<td>938</td>
<td>2013 New Flyer Xcelsior, Fixed Route</td>
</tr>
<tr>
<td>961</td>
<td>2008 BusWest, Paratransit         (Tail Advertising ONLY)</td>
</tr>
<tr>
<td>962</td>
<td>2008 BusWest, Paratransit         (Tail Advertising ONLY)</td>
</tr>
<tr>
<td>963</td>
<td>2014 ARBOC, Paratransit          (Tail Advertising ONLY)</td>
</tr>
<tr>
<td>964</td>
<td>2014 ARBOC, Paratransit          (Tail Advertising ONLY)</td>
</tr>
<tr>
<td>965</td>
<td>2014 ARBOC, Paratransit          (Tail Advertising ONLY)</td>
</tr>
</tbody>
</table>
Advertising may be placed on the following CITY Bus Shelters:

<table>
<thead>
<tr>
<th>Main Street/Cross Street</th>
<th>Site Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Merchant Street</td>
<td>In front of City Hall</td>
</tr>
<tr>
<td>Dobbins and Kendal Street</td>
<td>In front of McBride Senior Center</td>
</tr>
<tr>
<td>Davis Street</td>
<td>Inside Park and Ride lot</td>
</tr>
<tr>
<td>Davis Street and Hickory Street</td>
<td>Next to Park and Ride lot</td>
</tr>
<tr>
<td>Davis Street</td>
<td>Next to Outback Steakhouse</td>
</tr>
<tr>
<td>Alamo Drive and Marshall Road</td>
<td>Next to Three Oaks Community Center</td>
</tr>
<tr>
<td>Alamo Drive</td>
<td>Next to Saint Ann’s Apartment Complex</td>
</tr>
<tr>
<td>Alamo Drive and Peabody Road</td>
<td>Next to Rose Garden Apartment Complex</td>
</tr>
<tr>
<td>Alamo Drive and Marna Drive</td>
<td>Next to residential homes on Marna Drive</td>
</tr>
<tr>
<td>Vanden Road and Marshall Road</td>
<td>Next to park adjacent to Callison Elementary School</td>
</tr>
<tr>
<td>Davis Street</td>
<td>In front of Winco Foods</td>
</tr>
<tr>
<td>Nut Tree Road and Alamo Drive</td>
<td>At Raley’s Shopping Center</td>
</tr>
<tr>
<td>Nut Tree Road and Alamo Drive</td>
<td>In front of Autumn Leaves Senior Apartment Complex</td>
</tr>
<tr>
<td>Nut Tree Road and Elmira Road</td>
<td>In front of Autumn Leaves Senior Apartment Complex</td>
</tr>
<tr>
<td>Nut Tree Road and Yellowstone Drive</td>
<td>Next to Senior Manor Apartment Complex</td>
</tr>
<tr>
<td>Nut Tree Road (421 Nut Tree Road)</td>
<td>In front of North Bay Medical Offices</td>
</tr>
<tr>
<td>Yellowstone and Ranier Circle</td>
<td>At New Horizons Way (inside panel only)</td>
</tr>
<tr>
<td>Yellowstone and Lassen Circle</td>
<td>At N. Village Parkway (inside panel only)</td>
</tr>
<tr>
<td>Yellowstone and Glacier Circle</td>
<td>Near the AM/PM store</td>
</tr>
<tr>
<td>Orange Drive and Lawrence Drive</td>
<td>Next to Senior Manor Apartment Complex</td>
</tr>
<tr>
<td>Leisure Town Road</td>
<td>In front of Casa Grande Mobile Home Park</td>
</tr>
<tr>
<td>Solano Community College</td>
<td>Vacaville Campus</td>
</tr>
<tr>
<td>Vaca Valley Parkway</td>
<td>At New Horizons Way (inside panel only)</td>
</tr>
<tr>
<td>Vaca Valley Parkway</td>
<td>At N. Village Parkway (inside panel only)</td>
</tr>
<tr>
<td>Elmira Road and Aegean Way</td>
<td>Near the AM/PM store</td>
</tr>
<tr>
<td>Ulatis Cultural Center</td>
<td>Next to Library on East side of complex</td>
</tr>
<tr>
<td>East Monte Vista Ave.</td>
<td>In front of Best Buy</td>
</tr>
<tr>
<td>Location</td>
<td>Description</td>
</tr>
<tr>
<td>----------------------------------------------------</td>
<td>--------------------------------------------</td>
</tr>
<tr>
<td>Monte Vista Avenue and Brown Street</td>
<td>W. J. Carroll Government Bldg. (West-side panel only)</td>
</tr>
<tr>
<td>Browns Valley Parkway and Tipperary Dr.</td>
<td>In front of Millennium Sports Club</td>
</tr>
<tr>
<td>Markham Street and Monte Vista Ave.</td>
<td>Across from Lucky store</td>
</tr>
<tr>
<td>Helen Power and Burton</td>
<td>Next to Wal-Mart</td>
</tr>
<tr>
<td>Helen Power and Burton</td>
<td>Adjacent to Sam’s Club</td>
</tr>
<tr>
<td>Harbison Drive</td>
<td>In front of Burlington Coat factory</td>
</tr>
<tr>
<td>Harbison Drive</td>
<td>In front of Safeway</td>
</tr>
<tr>
<td>Nut Tree Road and Summerfield</td>
<td>Opposite of Vaca Valley Hospital</td>
</tr>
</tbody>
</table>

[REMAINDER LEFT BLANK INTENTIONALLY]
ATTACHMENT 2

PERMITTED ADVERTISING PRODUCTS FOR CITY BUSES, BUS SHELTERS, AND PASSENGER FACILITIES

The following types of on bus advertising products shall be permitted on CITY buses.

- KING DISPLAYS (30” x 144”)
- QUEEN DISPLAYS (30” x 88”)
- TAIL DISPLAYS (21” x 70”)
- SUPERTAIL (2’6” x 7’)
- FULL BACK (9’ x 7’)
- EMPRESS (42” x 114”)
- SUPER KING (30” x 216”)
- KONG (3’6” x 19’)
- SUPER SQUARE (9’ x 12’)
- KING KONG (9’ x 19’)
- HEADLINER (1’ x 40’)
- EXTENTIONS (sizes vary)
- INTERIOR CARDS (10.5” x 36”)
- BUS SHELTERS (One (1) advertising panel, 42” wide by 70” tall)

The following types of exterior bus advertising products shall be permitted only by pre-approval of CITY on a case by case basis. CITY will allow a maximum of six (6) FULL SIDE or FULL WRAP or combination of the two advertising types on CITY buses designated as Fixed Route.

- FULL SIDE (9’ x 35’)
- FULL WRAP (2 full side + full back)
The following types of advertising products shall be permitted on CITY bus shelters.

- BUS SHELTER ADVERTISING PANEL  (42’ x 72”)

The following types of advertising products shall be permitted on CITY kiosks at Transit Passenger Facilities.

- BUS SHELTER ADVERTISING PANEL  (42’ x 72”)

Advertising may be placed on the following CITY kiosks at Transit Passenger Facilities:

**Downtown Transit Plaza, West Monte Vista Ave. and Cernon Street**

There are a total of four, three (3) panel advertising kiosks located at the four corners of this site. CONTRACTOR is permitted to install advertising on two (2) of the three panels on three-panel kiosks.

There are a total of four, two (2) panel advertising kiosks located in the center of the site. CONTRACTOR is permitted to install advertising on one (1) panel, on each of the two-panel kiosks.
Vacaville Transportation Center, 1500 Allison Drive

There are a total of four, three (3) panel advertising kiosks at this site. CONTRACTOR is permitted to install advertising on one (1) panel, on each of the three-panel kiosks.

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EXHIBIT C

COMPENSATION

YEARS ONE THROUGH THREE REVENUE SHARE:

CITY shall receive a 45% Revenue Share. CONTRACTOR agrees to make monthly payments to CITY and provide a full monthly accounting of advertising sold and relevant revenue and expenses.

Revenue Share calculation shall be based on net advertising space sales. The industry standard for the definition of new advertising space sales will apply. “Net advertising space sales” consists of gross sales revenue less all art, production and installation fees (“production costs”). In the event art must be removed or replaced due to changes mandated by content not meeting advertising guidelines, the cost of the removal or replacement will not be excluded from the gross sales revenue.

OPTION YEARS:

The same Revenue Share calculations will be applied to approved Option Years.

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EXHIBIT D

INSURANCE

In all instances where CONTRACTOR or its representatives will provide consulting services to CITY, it shall be a requirement under this AGREEMENT that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to CITY as Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this AGREEMENT; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater. No representation is made that the minimum insurance requirements of this AGREEMENT are sufficient to cover the obligations of the CONTRACTOR under this AGREEMENT.

CONTRACTOR shall procure and maintain insurance against claims for injuries to persons, damage to property or economic losses which may arise from or in connection with the performance of the work hereunder and the results of that work by CONTRACTOR, its agents, representatives, employees or subcontractors.

CONTRACTOR agrees that in the event of loss due to any of the perils for which it has agreed to provide Commercial General and Auto Liability insurance, CONTRACTOR shall look solely to its insurance for recovery. CONTRACTOR hereby grants to CITY, on behalf of any insurer providing Commercial General and Automobile Liability insurance to either CONTRACTOR or CITY with respect to the services of CONTRACTOR herein, a waiver of any right to subrogation, which any such insurer of said CONTRACTOR may acquire against CITY by virtue of the payment of any loss under such insurance.

Original signed certificates and separate policy endorsements naming the City of Vacaville as Additional Insured for general liability, and a waiver of subrogation for Workers’ Compensation shall be received and approved by CITY before any work may begin. However, failure to do so shall not operate as waiver of these insurance requirements.

Minimum Scope of Insurance – the following forms shall be provided and coverage shall be at least as broad as the following:

1. Insurance Services Office Commercial General Liability coverage (ISO Occurrence Form CG0001).
3. Original and separate endorsement for Primary and Non-Contributory insurance coverage (ISO Form CG 20 01).
4. Insurance Services Office Automobile Liability coverage (ISO Form CA 0001, Code 1, Any Auto).
5. Workers’ Compensation Insurance as required by the State of California including Employer’s Liability coverage.
6. Original and separate Waiver of Subrogation for Workers’ Compensation Insurance.
7. Professional Liability or Errors and Omissions Liability Insurance appropriate to CONTRACTOR’s profession.
<table>
<thead>
<tr>
<th>Required Coverage</th>
<th>Minimum Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General Liability</strong></td>
<td>Minimum coverage $1,000,000 per occurrence and $2,000,000 aggregate.</td>
</tr>
<tr>
<td><em>(primary and excess limits combined)</em></td>
<td>Includes coverage for bodily injury, personal injury, property damage and products and completed operations. If the policy includes a general aggregate, either the general aggregate shall apply separately to this project, service or location or the <strong>minimum required aggregate limit shall be twice the per occurrence limit</strong>. Policy shall be endorsed to name the City of Vacaville as Additional Insured per the conditions detailed below.</td>
</tr>
<tr>
<td><strong>Automobile Liability</strong></td>
<td>$1,000,000 per occurrence for bodily injury and property damage.</td>
</tr>
<tr>
<td><strong>Workers’ Compensation and Employers’ Liability</strong></td>
<td>Statutory limits as required by the State of California including $1,000,000 Employers’ Liability per accident, per employee for bodily injury or disease. If CONTRACTOR is self-insured, provide a certificate of Permission to Self-Insure, signed by the California Department of Industrial Relations and Self-Insurance.</td>
</tr>
<tr>
<td><strong>Professional Liability or Errors and Omissions Liability</strong></td>
<td>Minimum coverage $1,000,000 per claim and $1,000,000 aggregate (on a claims made basis).</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Required Policy Conditions</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Additional Insured Endorsement - On-Going Operations</strong></td>
<td>Applicable to General Liability. The City of Vacaville, its officers, officials, employees, agents and volunteers are to be named as Additional Insured for all liability arising out of, or in any way caused, in whole or in part, actively or passively, by the named insured in the performance of this AGREEMENT. All coverage available to the named insured shall also be available and applicable to CITY as Additional Insured. <strong>Additional Insured On-Going Operations Coverage shall be at least as broad as ISO Form CG 20 10 04 13.</strong></td>
</tr>
<tr>
<td><strong>Primary and Noncontributory Endorsement</strong></td>
<td>The Additional Insured coverage under the CONTRACTOR’s policy shall be Primary and Noncontributory and will not seek contribution from CITY’s insurance or self-insurance and shall be at least as broad as ISO Form CG 20 01 04 13.</td>
</tr>
<tr>
<td><strong>A. M. Best Rating</strong></td>
<td>A:-VII or better. If the A.M. Best Rating falls below the required rating, CONTRACTOR must replace coverage immediately and provide prompt notice to CITY.</td>
</tr>
</tbody>
</table>
CONTRACTOR’s insurer will provide a Waiver of Subrogation endorsement in favor of CITY for Workers Compensation coverage during the life of this AGREEMENT.

1. All deductibles and self-insured retentions (SIR) greater than $50,000 must be disclosed to and approved by CITY’s Risk Management and shall not reduce the limits of liability.
2. Policies containing any SIR provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named Insured or CITY.
3. At the option of CITY either the insurer shall reduce or eliminate such deductibles or SIR as respects CITY; or CONTRACTOR shall procure a financial guarantee in an amount equal to the deductible or SIR retention guaranteeing payment of losses and related investigations, claims administration and defense expenses.

Umbrella/Excess Liability Policies
The limits of insurance required in this AGREEMENT may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall be at least as broad as specified for the underlying coverages and cover those insured in the underlying policies. Any umbrella or excess insurance shall also apply on a Primary and Noncontributory basis for the benefit of CITY before CITY’s own insurance or self-insurance shall be called upon to protect it as a named insured.

Claims-Made Policies
If any insurance policy is written on a claims-made form, the following conditions apply: 1) the retroactive date must be shown and must be before the date of this AGREEMENT, 2) the insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work, and 3) if coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of this AGREEMENT, CONTRACTOR must purchase an extended period coverage for a minimum of five (5) years after completion of contract work.

Subcontractors
CONTRACTOR shall include the following language in their agreement with subcontractors: “Subcontractor agrees to be bound to the CONTRACTOR and the City of Vacaville in the same manner and to the same extent as the CONTRACTOR is bound to the City of Vacaville under the Contract Documents. Subcontractor further agrees to include the same indemnity and insurance provisions contained in the CITY Contract Document, to the extent they apply to the scope of the sub-subcontractor’s work. A copy of the CITY Contract Document indemnity and insurance provisions will be furnished to subcontractor upon request.”

CONTRACTOR is responsible for verifying subcontractors’ insurance policies and endorsements. CONTRACTOR agrees to furnish to CITY upon request proof of insurance coverage for CONTRACTOR’s subcontractors.

CONTRACTOR agrees to defend and indemnify CITY for any damage resulting from failure of either CONTRACTOR or any subcontractor to take out or maintain the required insurance policies. The fact that insurance is obtained by CONTRACTOR and/or CONTRACTOR’s subcontractors, will not be deemed to release or diminish the liability of CONTRACTOR, including, without limitation, liability under the indemnity provisions
of this AGREEMENT. Damages recoverable by CITY from CONTRACTOR or any third party will not be limited by the amount of the required insurance coverage.

**Verification of Coverage**

All original certificates and endorsements shall be received and approved by CITY before work may begin. CITY reserves the right to obtain full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

**Original insurance certificates and required policy endorsements shall be mailed, or delivered to CITY’s Project Manager.** Insurance certificates and endorsements may be emailed or faxed to CITY’s Project Manager. However, CONTRACTOR must mail the original certificates and endorsements to CITY’s Project Manager once emailed or faxed.

**CITY’s Project Manager**

NAME: Lori DaMassa  
ADDRESS: 1001 Allison Drive  
Vacaville, CA 95687  
EMAIL: lori.damassa@cityofvacaville.com  
PHONE: (707) 469-6575

**Continuous Coverage**

CONTRACTOR shall maintain the required insurance for a period of at least one hundred and eighty (180) days (except as required under Claims-Made Policies) after final payment has been made by CITY to CONTRACTOR pursuant to this AGREEMENT. Should CONTRACTOR cease to have insurance as required during this time, all work by CONTRACTOR pursuant to this AGREEMENT shall cease until insurance acceptable to CITY is provided. **Maintenance of proper insurance coverage is a material element of this AGREEMENT.** Failure to maintain or renew coverage or to provide evidence of renewal may be treated by CITY as a material breach of this AGREEMENT. In the event that CONTRACTOR fails to comply with CITY’s insurance requirements, CITY may take such action as it deems necessary to protect CITY’s interests. Such action may include but is not limited to termination of this AGREEMENT, withholding of payments, or other actions as CITY deems appropriate.

If services or the scope of work extend beyond the expiration dates of the required insurance policies initially approved by CITY, CONTRACTOR must provide updated certificates and endorsements indicating that the required coverage, terms and conditions are still in place. **Renewal certificates and updated endorsements shall be mailed to CITY’s Project Manager.**

**Consistent with Public Policy**

The insuring provisions, insofar as they may be judged to be against public policy shall be void and unenforceable only to the minimum extent necessary so that the remaining terms and provisions herein may be consistent with public policy and thus enforceable.
EXHIBIT E

SPECIAL PROVISIONS

Check one:

☐ There are no special provisions.

☒ The special provisions to this AGREEMENT are as follows:

CONTRACTOR must strictly adhere to the CITY’s adopted Vacaville City Coach Transit Advertising Policy, Attachment 3.

ATTACHMENT 3

VACAVILLE CITY COACH TRANSIT ADVERTISING POLICY

The City of Vacaville (“City”) provides public transportation services (“City Coach”) within the City of Vacaville.

The City is engaged in the sale of advertising in and upon the property and rolling stock of the City’s transit fleet (“Transit Facilities”), consisting of:

(1) print advertising on the exterior of the City’s buses;
(2) print advertising displayed on bus shelters in the City’s service area;
(3) print advertising on the interior of the City’s buses;
(4) advertising on the exterior of City’s buses in the form of an advertising “wrap”.

This Advertising Policy (“Policy”) shall apply to the sale of all forms of advertising on all Transit Facilities owned and/or managed by the City.

I. PURPOSE

The City, in its sole discretion, will make space on or at its Transit Facilities available for limited types of advertising (“Permitted Advertising”). In adopting this Policy that allows limited types of advertising on or at its Transit Facilities, the City does not intend to create a public forum for public discourse or expressive activity or a forum for all types of advertising. The City’s acceptance of advertising does not provide or create a general public forum for expressive activities. In keeping with its proprietary function as a provider of public transportation, the City does not intend its acceptance of advertising to convert its Transit Facilities into open public forums for public discourse and debate. Rather, as noted below, the City’s fundamental purpose and intent is to accept advertising as an additional means of generating revenue to support its transit operations. In furtherance of that discreet and limited objective, the City retains strict control over the nature of the advertisements accepted for posting on or at its Transit Facilities and maintains its advertising space as a limited public forum. “(A) city transit system has discretion to develop and make reasonable
choices concerning the type of advertising that may be displayed in its vehicles.”* Lehman v. Shaker Heights*, 418 U.S. 298, 303 (1974).

This Policy advances the City’s revenue-generating objective by prohibiting advertisements that could detract from that goal by creating substantial controversy, interfering with and diverting resources from transit operations and/or posing significant risks of harm, inconvenience, or annoyance to transit passengers, operators and vehicles. Such advertisements create an environment that is not conducive to achieving increased revenue for the benefit of the transit system or to preserving and enhancing the security, safety, comfort and convenience of its operations. The viewpoint neutral restrictions in this Policy thus foster the maintenance of a professional advertising environment that maximizes advertising revenue.

This policy is intended to provide clear guidance as to the types of advertisements that will enable the City to generate revenue and enhance transit operations. Further, by not allowing the types of advertising specified in Section III below, the City will: (a) maintain a professional advertising environment that maximizes advertising revenues and minimizes interference with or disruption of the transit system; and (b) continue to build and retain transit ridership.

**II. PERMITTED ADVERTISING**

**A. Exterior Advertising**

The display of Permitted Advertising on the exterior of the Transit Facilities (“Exterior Advertising”) is intended to supplement fare revenue and other income that funds the City’s transit operations and promotes the City’s transit operations. In order to realize the maximum benefit from the sale of advertising space, the City’s advertising program must be managed in a manner that will procure as much revenue as practicable, while ensuring that the advertising is of a type that does not discourage the use of the transit system, does not diminish the City’s reputations in the community or the good will of their patrons, and is consistent with the principal purpose of providing safe and efficient public transportation. To attain these objectives, the City establishes the following regulations, which govern Exterior Advertising. Exterior Advertising permitted under this Section shall not contain displays or messages that are not permitted under Section III, below.

Exterior Advertising includes the following categories of advertisements:

1. **Commercial Advertising.** “Commercial Advertising” is advertising for which the sole purpose is to sell products, goods or services for a profit. Commercial advertising does not include advertising that combines a commercial message with a message that is not permitted under this Policy, e.g. an advertisement that offers a product for sale and promotes the election of a candidate for public office.

2. **Transit Operations of City Coach.** “Transit Operations Advertising” is advertising that advertises or promotes City Coach, such as the use of its transit services.
B. Interior Advertising

The City recognizes that passengers are a captive audience to advertisements that are posted on the interior of the City's buses ("Interior Advertising"). The City desires not to subject its passengers to advertisements relating to elections, politics, religion, or issues over which public opinion may differ because such advertisements may offend some passengers, which could discourage their patronage and, in turn, decrease transit revenues.

The City, therefore, establishes the following regulations governing Interior Advertising. As with Exterior Advertising, Interior Advertising permitted under this Section shall not contain displays or messages that are not permitted under Section III, below.

Interior Advertising includes the following categories of advertising:

1. Public Service Advertising. “Public Service Advertising” is advertising by governmental entities, academic institutions or tax-exempt nonprofit organizations that relates to community, art, cultural, educational, health, or safety events, programs and/or messages. Public Service Advertising does not include advertisements that include/combines Public Service Advertising, Commercial Advertising or contain any direct or indirect reference to religious, political or issue advocacy. Upon the City's request, nonprofit entities must document their tax-exempt status. Unless the source of the Public Service Advertising is obvious from the content or copy, the advertisement must specifically identify the advertisement’s sponsor.

2. Transit Operations of City Coach. “Transit Operations Advertising” is advertising that promotes City Coach, such as the use of its transit services.

3. Cross-promotional Advertising. “Cross-promotional Advertising” is advertising in which the City collaborates with for-profit entities to promote the use of City Coach as a means of travel to a specific event or activity. Cross-promotional Advertising does not include advertising that combines a cross-promotional message with a message that is not permitted under this Policy, e.g. an advertisement that promotes the use of City Coach as a means of travel to a political or religious event.

III. EXCLUDED ADVERTISING APPLICABLE TO EXTERIOR AND INTERIOR ADVERTISING

Exterior Advertising and Interior Advertising cannot be displayed or maintained on Transit Facilities if information contained in the advertisement includes one or more of the following:

1. False, misleading, or deceptive statements or information.
2. Statements or information that is defamatory or likely to hold up to scorn or ridicule a person or group of persons.
3. Obscene or pornographic materials, depictions, or statements.
4. Statements or information that advocate imminent lawlessness or violent action.
5. Statements or information that promote alcohol or tobacco products or their use.
6. Religious Advertisements, as defined below.

7. Political Advertisements, as defined below.

8. Intellectual property infringement, including piracy or infringement of copyright, trade dress, service mark, title or slogan.

9. Unauthorized Endorsements, as defined below.

For purposes of this Policy:

“Religious Advertisements” means advertisements that contain any direct or indirect reference to religion, or to any religion, or to any deity or deities, or which includes the existence, nonexistence or other characteristics of any deity or deities, or to any religious creed, denomination, belief, tenet, cause or issue relating to (including opposing or questioning) any religion. This prohibition on Religious Advertisements includes, but is not limited to, the depiction of text, symbols, or images commonly associated with any religion or with any deity or deities, or any religious creed, denomination, belief, tenet, cause or issue relating to (including opposing or questioning) any religion.

“Political Advertisements” means advertisements that refer to a particular ballot question, initiative, petition, referendum, candidate for office, political party, or viewpoint or that expresses or advocates opinions or positions upon any of the foregoing.

“Unauthorized Endorsements” means advertising that implies or declares that the City or its entities, officials, or employees endorses a product, service, viewpoint, event, person, or program. This prohibition on Unauthorized Endorsements does not include or apply to advertising for a service, event or program for which the City is an official sponsor, co-sponsor or participant.

IV. ADMINISTRATION AND ENFORCEMENT OF POLICY

A. Review by Contractor

The City may incorporate this Policy into any of its advertising management contracts. The contracting party to such contract (“Contractor”) shall not submit for display on or in the Transit Facilities any advertisement that does not comply with the standards or provisions of this Policy. If the Contractor is in doubt whether an advertisement complies with the standards or provisions of this Policy, the Contractor shall notify the City’s Transit Manager, or his/her designee of the uncertainty before submitting the advertisement for display and the specific provision or standard of this Policy that the Contractor is uncertain of.

B. Review by Transit Manager, or Designee

If the Contractor determines that an advertisement may not comply with the standards or provisions of this Policy, the Contractor shall promptly send the advertisement and supporting information (including the name of the advertiser, the size and number of the proposed advertisements, the dates
and locations of the proposed advertisements, and a notation of the standard or provision of concern) to the Transit Manager, or his/her designee, for review. The Transit Manager, or his/her designee, shall review the advertisement and supporting information to determine whether the advertisement complies with this Policy. If the Transit Manager, or his/her designee determines that the advertisement does not comply with this Policy, he/she shall specify in writing the standard or provision with which the advertisement does not comply, and shall so notify the Contractor.

C. Notification to Advertiser

The Contractor will promptly notify the advertiser in writing of the Transit Manager’s decision to reject the advertisement, together with a copy of this Policy, and will specify the standard or provision that the advertisement fails to comply with.

D. Appeal to Director of Public Works

The Transit Manager’s decision to reject an advertisement may be appealed by the advertiser to the City’s Public Works Director, or his/her designee, by providing written notification of the appeal within fifteen (15) calendar days of the date of Contractor’s notice. The Director of Public Works shall allow the advertiser and the Transit Manager, or his/her designee, to present any relevant argument or evidence they wish to offer. The Director of Public Works’ decision of the appeal shall be final.