



Add info # 14
NOV 19 2015



MEMORANDUM

Management Services Memo No. 16-038

DATE: NOVEMBER 19, 2015

TO: MAYOR AND COUNCIL

THRU: MARSHA REED, ACTING CITY MANAGER *MR*
DAWN LANG, MANAGEMENT SERVICES DIRECTOR *DL*

FROM: CHRISTINA PRYOR, PURCHASING AND MATERIALS MANAGER *CP*

SUBJECT: REGISTRAR OF CONTRACTORS LICENSE NOT REQUIRED
CONFIRMATION

On June 29, 2015, staff met with the Registrar of Contractors (ROC) representatives Jeff Wills, Chief of Compliance, Paul Terek, Assistant Chief of Licensing, and Wilma Dengavi, Assistant Director of Licensing and Finance and discussed a detailed list of the tasks that are conducted under the scope of the current agreement for the transit advertising program. The ROC identified tasks that would require a contractor's license and those that would not.

Based on direction received at the June 29 meeting, staff prepared RFP No. TD6-915-3571 Transit Shelter Advertising and Maintenance Services with a Scope of Work that includes only tasks that do not require a contractor's license.

On November 5, 2015, staff received reaffirmation from Jeff Wills that a license issued by the ROC was not required to perform the Scope of Work. This confirmation included a caveat that the newly hired Licensing Department Manager, Randy Cason, had been asked to review the scope and provide concurrence.

On November 9, 2015, staff received confirmation from Randy Cason that the work would not require a contractor's license.

On November 18 and 19, 2015, staff received telephone calls from Mr. Cason to discuss the Scope of Work. Mr. Cason confirmed again that a license issued by the ROC was not required to perform the Scope of Work.

The four written confirmations are attached as Exhibit 1.

cc: Robert Zeder, Transportation and Development Director
Jason Crampton, Transit Services Coordinator
Carolee Stees, Procurement Officer

Exhibit 1

From: Randy Cason <randyc@azroc.gov>
To: "Jason.Crampton@chandleraz.gov" <Jason.Crampton@chandleraz.gov>
Cc: "Wilma L. Dengavi" <wilma.dengavi@azroc.gov>, Jeff Wills <jwills@azroc.gov>
Date: 11/19/2015 03:42 PM
Subject: City of Chandler Solicitation No. TD6-915-3571

Jason Crampton,

After reviewing the additional documentation you provided regarding the City of Chandler Solicitation No. TD6-915-3571; RFP Final Agreement that states new work for Shelter Furniture Expansion, Digital Advertisement and Utilities will not be done by the advertising contractor under this contract, but will be done by the City's licensed contractor and the additional clarification you provided on Shelter Furniture Expansion, Cleanup of Broken Glass, Utilities and Digital Advertisement, the Registrar's original statement below remains.

No licenses are requires on the items listed below;

Paint Touch-up

Changing Light Bulbs (not fixtures or anything with wiring involved) - this would be a matter of unscrewing a light bulb and screwing a new one in, or popping out a fluorescent tube light and popping the new one in.

Removing/ replacing polycarbonate/ plexi-glass covers (4'x6' screens that slide in and out of the advertising kiosk, and are held in place by a fastener that can be loosened/ tightened with a phillips head screwdriver). Pictures showing before and after screw is removed is shown.

Cleaning up broken glass

Randy Cason

Licensing Department Manager

1700 W Washington St Ste 105

Phoenix, AZ 85007

Phone(602) 771-6747

E-mail Randy.Cason @ AZROC.GOV

From: Randy Cason <randyc@azroc.gov>
To: "Jason.Crampton@chandleraz.gov" <Jason.Crampton@chandleraz.gov>
Cc: "Wilma L. Dengavi" <wilma.dengavi@azroc.gov>, Jeff Wills <jwills@azroc.gov>
Date: 11/18/2015 02:52 PM
Subject: License Requirement for Work at Bus Stops

Good Afternoon Jason,

After reviewing the City of Chandler Solicitation No. TD6-915-3571 document pertaining to the Additional Cleaning/Maintenance Services scope, the Registrar of Contractors has determined no licenses are required on the items listed below;

Paint Touch-up

Changing Light Bulbs (not fixtures or anything with wiring involved) - this would be a matter of unscrewing a light bulb and screwing a new one in, or popping out a fluorescent tube light and popping the new one in.

Removing/ replacing polycarbonate/ plexi-glass covers (4'x6' screens that slide in and out of the advertising kiosk, and are held in place by a fastener that can be loosened/ tightened with a phillips head screwdriver). Pictures showing before and after screw is removed is shown.
Cleaning up broken glass

Sincerely,

Randy Cason

Licensing Department Manager

1700 W Washington St Ste 105

Phoenix, AZ 85007

Phone(602) 771-6747

E-mail Randy.Cason @ AZROC.GOV

From: Randy Cason <randyc@azroc.gov>
To: "Jason.Crampton@chandleraz.gov" <Jason.Crampton@chandleraz.gov>
Cc: Jeff Wills <jwills@azroc.gov>, "Wilma L. Dengavi" <wilma.dengavi@azroc.gov>
Date: 11/09/2015 04:31 PM
Subject: License Requirements for Work at Bus Stops

Hello Jason,

As we discuss early today, I reviewed the information in your email to Jeff Wills, I agree with the outcome of the meeting in June with the City of Chandler and ROC . The items listed below are maintenance items. No license is required.

No license is requires on the items listed below;

Paint Touch-up

Changing Light Bulbs (not fixtures or anything with wiring involved - this would be a matter of unscrewing a light bulb and screwing a new one in, or popping out a fluorescent tube light and popping the new one in.

Removing/ replacing polycarbonate/ plexi-glass covers (4'x6' screens that slide in and out of the advertising kiosk, and are held in place by a fastener that can be loosened/ tightened with a phillips head screwdriver). Pictures showing before and after screw is removed is shown.

Cleaning up broken glass

Thank you,

Randy Cason

Licensing Department Manager

1700 W Washington St Ste 105

Phoenix, AZ 85007

Phone(602) 771-6747

E-mail Randy.Cason @ AZROC.GOV

11/19/15

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From: Jeff Wills <jwills@azroc.gov>
To: "AnnMarie.Riley@chandleraz.gov" <AnnMarie.Riley@chandleraz.gov>
Cc: "Jason.Crampton@chandleraz.gov" <Jason.Crampton@chandleraz.gov>, "Christina.Pryor@chandleraz.gov" <Christina.Pryor@chandleraz.gov>, "Carolee.Stees@chandleraz.gov" <Carolee.Stees@chandleraz.gov>, "Dan.Cook@chandleraz.gov" <Dan.Cook@chandleraz.gov>
Date: 11/05/2015 12:24 PM
Subject: RE: License Requirements for Work at Bus Stops

Hello Mr. Crampton,

I have forwarded this information including all attachments to our licensing department. I do want to let you know that we have had a change in management in our licensing department. Paul Terek who was in the room during our meeting in June, is no longer with the agency. I have asked our new manager, Randy Cason to take a look at the attachments and the email below that explains the type of maintenance for these shelters.

I have not changed my opinion regarding what you have listed below and that opinion is, no license would be required for this general maintenance. Again, I would like our Licensing Manager to take a look to make sure he concurs. I or we will be back in touch as soon as possible.

Thank you,

Jeff Wills
Chief of Compliance
Arizona Registrar of Contractors
1700 W. Washington Street
Phoenix, AZ. 85007
602.771.6891
jeff.wills@azroc.gov



**PURCHASING ITEM
FOR
COUNCIL AGENDA
Memo No. TN16-06**

1. Agenda Item Number:

14

2. Council Meeting Date:
November 19, 2015

TO: MAYOR AND COUNCIL

3. Date Prepared: October 23, 2015

THROUGH: CITY MANAGER

4. Requesting Department:
Transportation & Development

5. SUBJECT: Transit shelter advertising and maintenance services

6. RECOMMENDATION: Staff recommends City Council approve Agreement No. TD6-915-3571, with StreetMediaGroup, LLC, for transit shelter advertising and maintenance services for an initial five-year term, with the option of two (2) additional three-year extensions.

7. BACKGROUND/DISCUSSION: The City provides bus shelters and transit furniture for the comfort of passengers using the public transit system. Of the City's stops, approximately 181 feature shelters with advertising kiosks. Historically, the City has engaged the services of a contractor for the sale of advertising and the installation and maintenance of the shelters and furniture. OutFront Media, formerly CBS Outdoor, provides services under the existing contract in exchange for the right to sell advertising at bus shelters. The existing contract will expire on December 31, 2015. The City has exhausted all available extension options. The new agreement includes cleaning, advertising and minor maintenance, but does not include heavy maintenance or any other work that would require the vendor to have an Arizona Contractor's License through the Registrar of Contractors (ROC).

8. EVALUATION: On August 21, 2015, City staff issued a Request for Proposal (RFP) for transit shelter advertising and maintenance services. Under the scope of the agreement, the successful offeror will sell advertising at City-owned transit shelters, share advertising revenue with the City, and perform cleaning and basic maintenance services of City-owned transit shelters and furniture at no cost to the City. Notification was sent to all registered vendors. Two proposals were received from StreetMediaGroup (SMG) and OutFront Media.

The Evaluation Committee reviewed the proposals in accordance with the evaluation criteria which were revenue proposal, qualifications and experience, and method of approach. Interviews were then conducted with the two (2) offerors and references for the offerors were contacted. Following the proposal review, reference review and interviews, the Evaluation Committee recommends award to SMG, who submitted the most advantageous offer to the City in accordance with the evaluation criteria.

Revenue Proposal: SMG's proposal offered minimum guaranteed revenues roughly equivalent to OutFront Media's proposal, however, the SMG proposal provides the possibility of higher revenue for the City during positive economic climates. The minimum guaranteed revenue is estimated to be approximately \$680,000 in the initial term.

Qualifications and Experience: SMG and its staff are highly qualified in transit shelter advertising, as it is the primary focus of the business. Additionally, SMG's public agency and transit references provided overwhelmingly positive recommendations. SMG currently operates in a number of other cities similar to Chandler's size and has been very successful in generating revenue and maintaining clean and attractive shelters.

Method of Approach: The SMG approach will result in enhanced amenities for Chandler's transit passengers, better communication with Chandler staff, and higher potential for revenue generation. In addition to the advertising revenue provided to the City, SMG will provide funding for new bus shelters and lighting for existing advertising shelters. SMG's software will provide the City with the ability to track real-time maintenance, cleaning and advertising sales locations, enabling City staff to better oversee the work required in the agreement. Finally, SMG's willingness to invest in improving Chandler's advertising

amenities, the in-house cleaning program, attention to detail, and the localized approach to advertising sales will result in higher long-term revenue potential for the City.

The term of this agreement is January 1, 2016, through December 31, 2020, with the option of two (2) additional three-year extensions.

9. FINANCIAL IMPLICATIONS: Over the course of the initial five-year term, SMG will provide the City with minimum advertising revenues of approximately \$680,000, with anticipated revenue shares being considerably higher. Additionally, the City will be provided with an estimated \$1.45 million in bus stop cleaning and maintenance services, including the Transit Center and Park and Ride, and \$350,000 for bus shelter improvements. The total value of this agreement is estimated to be \$2.48 million or \$496,000 per year.

Cost:	\$ 0
Projected Revenue:	\$ 680,000
Value of Services/Capital:	\$1,800,000
Total Value to City:	\$2,480,000

10. PROPOSED MOTION: Move City Council approve Agreement No. TD6-915-3571, with StreetMediaGroup, LLC, for transit shelter advertising and maintenance services for an initial five-year term, with the option of two (2) additional three-year extensions.

ATTACHMENTS: Agreement

APPROVALS

11. Requesting Department



Jason Crampton, Transit Services Coordinator

13. Department Head



R.J. Zeder, Transportation & Development Director

12. Procurement Officer



Carolee Stees, CPPB

14. Acting City Manager



Marsha Reed

**CITY OF CHANDLER SERVICES AGREEMENT
TRANSIT SHELTER ADVERTISING AND MAINTENANCE SERVICES
AGREEMENT NO.:TD6-915-3571**

THIS AGREEMENT is made and entered into this ____ day of November, 2015, by and between the City of Chandler, a Municipal Corporation of the State of Arizona, hereinafter referred to as "City", and StreetMediaGroup, LLC, hereinafter referred to as "Contractor".

WHEREAS, Contractor represents that Contractor has the expertise and is qualified to perform the services described in the Agreement.

NOW THEREFORE, in consideration of the mutual promises and obligations set forth herein, the parties hereto agree as follows:

1. AGREEMENT ADMINISTRATOR:

1.1. Agreement Administrator. Contractor shall act under the authority and approval of the Transit Services Coordinator or designee (Agreement Administrator), to provide the services required by this Agreement.

1.2. Qualified Personnel. Contractor shall provide adequately trained personnel to perform required services as well as field supervisors who will perform routine and random inspections to ensure proper performance. Contractor shall ensure all field personnel will wear appropriate attire, reflective safety vests and identifications badges while performing the required services.

1.3. Advertising Sales. Contractor shall employ a qualified sales staff or establish and maintain a business relationship with a qualified and experienced national sales organization which has the capability to solicit national, regional and local advertising on bus shelter structures.

1.4. Subcontractors. During the performance of the Agreement, Contractor may engage such additional Subcontractor as may be required for the timely completion of this Agreement. In the event of subcontracting, the sole responsibility for fulfillment of all terms and conditions of this Agreement rests with Contractor.

1.5. Subcontracts. Contractor shall not enter into any Subcontract under this Agreement for the performance of this Agreement without the advance written approval of City. The subcontract shall incorporate by reference the terms and conditions of this Agreement.

2. SCOPE OF WORK: Contractor shall provide the services all as more specifically set forth in Exhibit A, attached hereto and made a part hereof by reference.

2.1 Non-Discrimination. The Contractor shall comply with all applicable City, State and Federal laws, rules and regulations, including the Americans with Disabilities Act.

2.2 Licenses. Contractor shall maintain in current status all Federal, State and local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this agreement.

2.3 Compliance with Applicable Laws. Contractor shall comply with all applicable Federal, state and local laws, and with all applicable licenses and permit requirements.

2.3.1 The Contractor hereby warrants to the City that the Contractor and each of its subcontractors ("subcontractors") will comply with all Federal Immigration laws and regulations that relate to the immigration status of their employees and the requirement to use E-Verify, hereinafter "Contractor Immigration Warranty".

- 2.3.2 A breach of the Contractor Immigration Warranty shall constitute a material breach of this Agreement that is subject to penalties up to and including termination of the agreement.
 - 2.3.3 The City retains the legal right to inspect the papers of any Contractor or Subcontractor employee who works on this Agreement to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty. The Contractor agrees to assist the City in the conduct of any such inspections.
 - 2.3.4 The City may, at its sole discretion, conduct random verifications of the employment records of the Contractor and any Subcontractors to ensure compliance with Contractors Immigration Warranty. The Contractor agrees to assist the City in performing any such random verification.
 - 2.3.5 The provisions of this Article must be included in any agreement the Contractor enters into with any and all of its subcontractors who provide services under this Agreement or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.
- 3. ACCEPTANCE AND DOCUMENTATION:** Each task shall be reviewed and approved by the Agreement Administrator to determine acceptable completion.
- 3.1. **Records.** The Contractor shall retain and shall contractually require each Subcontractor to retain all data and other "records" relating to the acquisition and performance of the Agreement for a period of five years after the completion of the Agreement.
 - 3.2. **Audit.** At any time during the term of this Agreement and five (5) years thereafter, the Contractor's or any subcontractor's books and records shall be subject to audit by the City to the extent that the books and records relate to the performance of the Agreement or Subcontract. Upon request, the Contractor shall produce a legible copy of any or all such records.
 - 3.3. **Reports.** The Contractor shall submit reports to the City on the 15th of each month. Reports will include, but not be limited to the following: Monthly Advertising Receipts Collected; Monthly Sales Occupancy; Monthly Public Service Announcement Occupancy; Operations/Maintenance Information and Shelter Damage Amounts.
 - 3.4. **Property of City.** Any materials, including reports, computer programs and other deliverables, created under this Agreement are the sole property of City. Contractor is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. Contractor shall not use or release these materials without the prior written consent of City.
- 4. ADVERTISING REVENUE SHARING PLAN:**
- 4.1. In exchange for the completion of all services included in the attached Scope of Work, the City grants the Contractor the right to sell advertising space on Transit Ad Shelters and kiosks that are not already reserved for use by the City. The Contractor shall pay the City the amount per shelter per month or a % of the monthly net revenue generated by the advertising sales, whichever is greater, as detailed in Exhibit B.
 - 4.2. **Taxes.** Contractor shall be solely legally responsible for any and all tax obligations, which may result out of Contractor's performance of this Agreement. City shall have no legal obligation to pay any amounts for taxes, of any type, incurred by Contractor. City agrees that Contractor may bill the City for applicable privilege license taxes which are paid for by Contractor and that the City will reimburse Contractor for privilege license taxes actually paid by Contractor. If Contractor obtains any refund of privilege license taxes paid, City will be entitled to a refund of such amounts.

- 4.3. **Payment.** Contractor shall pay the City monthly advertising revenues no later than the 15th of the following month.
- 4.4. **IRS W9 Form.** In order to receive payment Contractor shall have a current I.R.S. W9 Form on file with City, unless not required by law.
5. **TERM:** The term of the Agreement is five years, commencing on January 1, 2016 and terminating on December 31, 2020, unless sooner terminated in accordance with the provisions herein. The Contract may be extended by mutual agreement of the parties for two additional successive terms of three years each. Additionally, the Contract may be extended unilaterally for a period of 31 days or a portion thereof.
- 5.1. **Negotiation in Extension Terms.** All revenue sharing offered herein shall be firm against any change for the initial term of the Agreement. Prior to commencement of subsequent renewal terms, City and Contractor may approve an adjustment in the revenue sharing. If any adjustment is agreed upon by both parties, a written Amendment shall be approved and executed by the parties.
6. **USE OF THIS AGREEMENT:** The Agreement is for the sole convenience of the City of Chandler. City reserves the rights to obtain like services from another source to secure significant cost savings or when timely completion cannot be met by Contractor.
- 6.1. **Cooperative Use of Agreement.** In addition to the City of Chandler and with approval of the Contractor, this Agreement may be extended for use by other municipalities, school districts and government agencies of the State. A current listing of eligible entities may be found at www.maricopa.gov/materials and then click on 'Contracts', 'S.A.V.E.' listing and 'ICPA'. Any such usage by other entities must be in accordance with the ordinance, charter and/or procurement rules and regulations of the respective political entity.
- Orders placed by other agencies and payment thereof will be the sole responsibility of that agency. The City shall not be responsible for any disputes arising out of transactions made by other agencies who utilize this Agreement.
- 6.2. **Emergency Purchases:** City reserves the rights to purchase from other sources those items, which are required on an emergency basis and cannot be supplied immediately by the Contractor.
- 6.3. **Non-Exclusive Agreement:** This agreement is for the sole convenience of the City of Chandler. The City reserves the right to obtain like goods or services from another source when necessary.
- 6.4. **Exclusive Possession:** All services, information, computer program elements, reports and other deliverables created under this Agreement are the sole property of the City of Chandler and shall not be used or released by the Contractor or any other person except with prior written permission by the City.
7. **CITY'S CONTRACTUAL REMEDIES:**
- 7.1. **Right to Assurance.** If the City in good faith has reason to believe that the Contractor does not intend to, or is unable to perform or continue performing under this Agreement, the Agreement Administrator may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the City's option, be the basis for terminating the Agreement in addition to any other rights and remedies provided by law or this Agreement.
- 7.2. **Stop Work Order.** The City may, at any time, by written order to the Contractor, require the Contractor to stop all or any part, of the work called for by this Agreement for period(s) of days indicated by the City after the order is delivered to the Contractor. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately

comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

- 7.3. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Agreement Administrator shall make an equitable adjustment in the delivery schedule or Agreement price, or both, and the Agreement shall be amended in writing accordingly.
- 7.4. **Non-exclusive Remedies.** The rights and the remedies of the City under this Agreement are not exclusive.
- 7.5. **Nonconforming Tender.** Services and materials supplied under this Agreement shall fully comply with Agreement requirements and specifications. Services or materials that do not fully comply constitute a breach of agreement.
- 7.6. **Right of Offset.** The City shall be entitled to offset against any sums due Contractor, any expenses or costs incurred by the City, or damages assessed by the City concerning the Contractor's non-conforming performance or failure to perform the Agreement, including expenses to complete the work and other costs and damages incurred by City.

8. TERMINATION:

- 8.1. **Termination for Convenience:** City reserves the right to terminate this Agreement or any part thereof for its sole convenience with thirty (30) days written notice. In the event of such termination, Contractor shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and subcontractors to cease such work. As compensation in full for services performed to the date of such termination, the Contractor shall receive a fee for the percentage of services actually performed. This fee shall be in the amount to be mutually agreed upon by the Contractor and City, based on the agreed Scope of Work. If there is no mutual agreement, the Management Services Director or designee shall determine the percentage of work performed under each task detailed in the Scope of Work and the Contractor's compensation shall be based upon such determination and Contractor's fee schedule included herein.
- 8.2. **Termination for Cause:** City may terminate this Agreement for Cause upon the occurrence of any one or more of the following events:
 - 1) If Contractor fails to perform pursuant to the terms of this Agreement
 - 2) If Contractor is adjudged a bankrupt or insolvent;
 - 3) If Contractor makes a general assignment for the benefit of creditors;
 - 4) If a trustee or receiver is appointed for Contractor or for any of Contractor's property;
 - 5) If Contractor files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws;
 - 6) If Contractor disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction;

In the event of the happening of any of the causes for termination identified in the foregoing Section, the City shall provide written notice to the Contractor that it is in default of its obligations under the Agreement and Contractor will be permitted 30 days from receipt of written notice from the City to cure such default. If the obligation cannot reasonably be performed within 30 days, the Contractor shall not be in default as long as it commences a cure within 30 days of notice and diligently pursues it to completion. Where Agreement has been so terminated by City, the termination shall not affect any rights of City against Contractor then existing or which may thereafter accrue.

- 8.3. **Cancellation for Conflict of Interest.** Pursuant to A.R.S. § 38-511, City may cancel this Agreement after Agreement execution without penalty or further obligation if any person significantly involved in

initiating, negotiating, securing, drafting or creating the Agreement on behalf of the City is or becomes at any time while this Agreement or an extension of this Agreement is in effect, an employee of or a consultant to any other party to this Agreement. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time.

- 8.4. Gratuities.** City may, by written notice, terminate this Agreement, in whole or in part, if City determines that employment or a Gratuity was offered or made by Contractor or a representative of Contractor to any officer or employee of City for the purpose of influencing the outcome of the procurement or securing this Agreement, an amendment to this Agreement, or favorable treatment concerning this Agreement, including the making of any determination or decision about agreement performance. The City, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by Contractor.
- 8.5. Suspension or Debarment.** City may, by written notice to the Contractor, immediately terminate this Agreement if City determines that Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body. Submittal of an offer or execution of an agreement shall attest that the Contractor is not currently suspended or debarred. If Contractor becomes suspended or debarred, Contractor shall immediately notify City.
- 8.6. Continuation of Performance Through Termination.** The Contractor shall continue to perform, in accordance with the requirements of the Agreement, up to the date of termination, as directed in the termination notice.
- 8.7. No Waiver.** Either party's failure to insist on strict performance of any term or condition of the Agreement shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.
- 8.8. Availability of Funds for the next Fiscal Year.** Funds may not presently be available under this Agreement beyond the current fiscal year. No legal liability on the part of the City for services may arise under this Agreement beyond the current fiscal year until funds are made available for performance of this Agreement. The City may reduce services or terminate this Agreement without further recourse, obligation, or penalty in the event that insufficient funds are appropriated. The City Manager shall have the sole and unfettered discretion in determining the availability of funds.
- 9. FORCE MAJEURE:** Neither party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts shall include, but not be limited to, acts of God, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failures, power failures, or earthquakes.
- 10. DISPUTE RESOLUTION:**
- 10.1. Arizona Law.** This Agreement shall be governed and interpreted according to the laws of the State of Arizona.
- 10.2. Jurisdiction and Venue.** The parties agree that this Agreement is made in and shall be performed in Maricopa County. Any lawsuits between the Parties arising out of this Agreement shall be brought and concluded in the courts of Maricopa County in the State of Arizona, which shall have exclusive jurisdiction over such lawsuits.
- 10.3. Fees and Costs.** Except as otherwise agreed by the parties, the prevailing party in any adjudicated dispute relating to this Agreement is entitled to an award of reasonable attorney's fees, expert witness fees and costs including, as applicable, arbitrator fees.

- 11. INDEMNIFICATION:** To the fullest extent permitted by law, Contractor, its successors, assigns and guarantors, shall defend, indemnify and hold harmless City and any of its elected or appointed officials, officers, directors, commissioners, board members, agents or employees from and against any and all allegations, demands, claims, proceedings, suits, actions, damages, including, without limitation, property damage, environmental damages, personal injury and wrongful death claims, losses, expenses (including claim adjusting and handling expenses), penalties and fines (including, but not limited to, attorney fees, court costs, and the cost of appellate proceedings), judgments or obligations, which may be imposed upon or incurred by or asserted against the City by reason of this Agreement or the services performed or permissions granted under it, or related to, arising from or out of, or resulting from any negligent or intentional actions, acts, errors, mistakes or omissions caused in whole or part by Contractor, or any of its subcontractors, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, relating to the discharge of any duties or the exercise of any rights or privileges arising from or incidental to this Agreement, including but not limited to, any injury or damages claimed by any of Contractor's and subcontractor's employees. Notwithstanding the foregoing, Contractor's indemnification obligation arising under this Agreement does not apply to claims arising as a result of the City's sole negligence.

The amount and type of insurance coverage requirements set forth in the Agreement will in no way be construed as limiting the scope of indemnity in this paragraph.

12. INSURANCE:

1. General.

- A. At the same time as execution of this Agreement, the Contractor shall furnish the City of Chandler a certificate of insurance on a standard insurance industry ACORD form. The ACORD form must be issued by an insurance company authorized to transact business in the State of Arizona possessing a current A.M. Best, Inc. rating of A-7, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to City. Provided, however, the A.M. Best rating requirement shall not be deemed to apply to required Workers' Compensation coverage.
- B. The Contractor and any of its subcontractors shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, the insurances set forth below.
- C. The insurance requirements set forth below are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.
- D. The City in no way warrants that the minimum insurance limits contained in this Agreement are sufficient to protect Contractor from liabilities that might arise out of the performance of the Agreement services under this Agreement by Contractor, its agents, representatives, employees, subcontractors, and the Contractor is free to purchase any additional insurance as may be determined necessary.
- E. Failure to demand evidence of full compliance with the insurance requirements in this Agreement or failure to identify any insurance deficiency will not relieve the Contractor from, nor will it be considered a waiver of its obligation to maintain the required insurance at all times during the performance of this Agreement.
- F. Use of Subcontractors: If any work is subcontracted in any way, the Contractor shall execute a written contract with Subcontractor containing the same Indemnification Clause and Insurance Requirements as the City requires of the Contractor in this Agreement. The Contractor is responsible for executing the Agreement with the Subcontractor and obtaining Certificates of Insurance and verifying the insurance requirements.

2. Minimum Scope And Limits Of Insurance. The Contractor shall provide coverage with limits of liability not less than those stated below.
- A. *Commercial General Liability-Occurrence Form.* Contractor must maintain "occurrence" form Commercial General Liability insurance with a limit of not less than \$2,000,000 for each occurrence, \$4,000,000 aggregate. Said insurance must also include coverage for products and completed operations, independent contractors, personal injury and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than underlying insurance.
 - B. *Automobile Liability-Any Auto or Owned, Hired and Non-Owned Vehicles Vehicle Liability:* Contractor must maintain Business/Automobile Liability insurance with a limit of \$1,000,000 each accident on Contractor owned, hired, and non-owned vehicles assigned to or used in the performance of the Contractor's work or services under this Agreement. If any Excess or Umbrella insurance is utilized to fulfill the requirements of this paragraph, the Excess or Umbrella insurance must be "follow form" equal or broader in coverage scope than underlying insurance.
 - C. *Workers Compensation and Employers Liability Insurance:* Contractor must maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor employees engaged in the performance of work or services under this Agreement and must also maintain Employers' Liability insurance of not less than \$1,000,000 for each accident and \$1,000,000 disease for each employee.
3. Additional Policy Provisions Required.
- A. *Self-Insured Retentions Or Deductibles.* Any self-insured retentions and deductibles must be declared and approved by the City. If not approved, the City may require that the insurer reduce or eliminate any deductible or self-insured retentions with respect to the City, its officers, officials, agents, employees, and volunteers.
 - B. *City as Additional Insured.* The policies are to contain, or be endorsed to contain, the following provisions:
 - 1. The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions: The City, its officers, officials, agents, and employees are additional insureds with respect to liability arising out of activities performed by, or on behalf of, the Contractor including the City's general supervision of the Contractor; Products and Completed operations of the Contractor; and automobiles owned, leased, hired, or borrowed by the Contractor.
 - 2. The Contractor's insurance must contain broad form contractual liability coverage and must not exclude liability arising out of explosion, collapse, or underground property damage hazards ("XCU") coverage.
 - 3. The City, its officers, officials, agents, and employees must be additional insureds to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Agreement.
 - 4. The Contractor's insurance coverage must be primary insurance with respect to the City, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, agents, and employees shall be in excess of the coverage provided by the Contractor and must not contribute to it.

5. The Contractor's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 6. Coverage provided by the Contractor must not be limited to the liability assumed under the indemnification provisions of this Agreement.
 7. The policies must contain a severability of interest clause and waiver of subrogation against the City, its officers, officials, agents, and employees, for losses arising from Work performed by the Contractor for the City.
 8. The Contractor, its successors and or assigns, are required to maintain Commercial General Liability insurance as specified in this Agreement for a minimum period of 3 years following completion and acceptance of the Work. The Contractor must submit a Certificate of Insurance evidencing Commercial General Liability insurance during this 3 year period containing all the Agreement insurance requirements, including naming the City of Chandler, its agents, representatives, officers, directors, officials and employees as Additional Insured as required.
 9. If a Certificate of Insurance is submitted as verification of coverage, the City will reasonably rely upon the Certificate of Insurance as evidence of coverage but this acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the required policies expire during the life of this Agreement, the Contractor must forward renewal or replacement Certificates to the City within 10 days after the renewal date containing all the necessary insurance provisions.
 10. By signing this Agreement, the Contractor certifies it is fully aware of Insurance Requirements contained in the Agreement and assures the City of Chandler that it is able to produce the Insurance coverage required.
 11. Should the Contractor become unable to produce the Insurance coverage specified within ten working days, the Contractor is fully aware and understands that it may not be considered for further projects by City of Chandler.
- 13. NOTICES:** All notices or demands required to be given pursuant to the terms of this Agreement shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of the CITY
 Agreement Administrator: Transit Coordinator
 Contact: Jason Crampton or AnnMarie Riley
 Mailing Address: PO Box 4008 MS 412
 Physical Address: 215 E. Buffalo St.
 City, State, Zip: Chandler, AZ 85225
 Phone: 480-782-3440
 FAX: 480-782-3495

In the case of the CONTRACTOR
 Firm Name: StreetMediaGroup, LLC
 Contact: Gary Young
 Address: 5724 S College Ave
 City, State, Zip: Fort Collins, CA 80525
 Phone: 970-658-9070
 FAX: gary@streetmediagroup.com

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

14. CONFLICT OF INTEREST:

- 14.1. No Kickback.** Contractor warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no member of the City Council or any employee of the City has any interest, financially or otherwise, in the firm unless this interest has been declared pursuant to the provisions of A.R.S. Section 38-501. Any such interests were disclosed in Contractor's proposal to the City.
- 14.2. Kickback Termination.** City may cancel any agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the City is, at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a Contractor to any other party to the Agreement with respect to the subject matter of the Agreement. The cancellation shall be effective when written notice from City is received by all other parties, unless the notice specifies a later time (A.R.S. §38-511).
- 14.3. No Conflict:** Contractor stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this project.
- 15. GENERAL TERMS:**
- 15.1. Ownership.** All deliverables and/or other products of the Agreement (including but not limited to all software documentation, reports, records, summaries and other matter and materials prepared or developed by Contractor in performance of the Agreement) shall be the sole, absolute and exclusive property of City, free from any claim or retention of right on the part of Contractor, its agents, sub-contractors, officers or employees.
- 15.2. Entire Agreement.** This Agreement, including all Exhibits attached hereto, constitutes the entire understanding of the parties and supersedes all previous representations, written or oral, with respect to the services specified herein. This Agreement may not be modified or amended except by a written document, signed by authorized representatives or each party.
- 15.3. Assignment:** Services covered by this Agreement shall not be assigned in whole or in part without the prior written consent of the City.
- 15.4. Amendments.** The Agreement may be modified only through a written Agreement Amendment executed by authorized persons for both parties. Changes to the Agreement, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the City in writing or made unilaterally by the Contractor are violations of the Agreement. Any such changes, including unauthorized written Agreement Amendments shall be void and without effect, and the Contractor shall not be entitled to any claim under this Agreement based on such changes.
- 15.5. Independent Contractor.** The Contractor under this Agreement is an independent Contractor. Neither party to this Agreement shall be deemed to be the employee or agent of the other party to the Agreement.
- 15.6. No Parole Evidence.** This Agreement is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document and no other understanding either oral or in writing shall be binding.

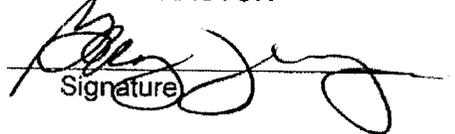
15.7. **Authority:** Each party hereby warrants and represents that it has full power and authority to enter into and perform this Agreement, and that the person signing on behalf of each has been properly authorized and empowered to enter this Agreement. Each party further acknowledges that it has read this Agreement, understands it, and agrees to be bound by it.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names to this ____ day of November, 2015.

FOR THE CITY OF CHANDLER

FOR THE CONTRACTOR

Mayor

By: 
Signature

ATTEST:

City Clerk

SEAL

ATTEST: If Corporation

Secretary

Approved as to form:

City Attorney 

**ATTACHMENT A
FEDERAL TRANSIT ADMINISTRATION (FTA)
REQUIRED TERMS, CONDITIONS AND CERTIFICATIONS**

This procurement is being funded, in whole or in part, with federal funds through Federal Transit Administration (FTA). As consequence of that funding, the following FTA mandated provisions are included in this proposal.

1. No Obligation by the Federal Government

The City and the Contractor acknowledge and agree that:

- (1) Notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of this Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to the Contract and shall not be subject to any obligations or liabilities to the City, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from this Contract.
- (2) The Contractor shall include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the sub-Contractor who will be subject to its provisions.

2. Program Fraud and False or Fraudulent Statements or Related Acts

The Contractor acknowledges and agrees that:

- (1) The provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq., and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this project. Upon execution of the Contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to this Contract or the FTA assisted project for which work under this Contract is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
- (2) If the Contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Federal Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
- (3) The Contractor shall include the above two (2) clauses in each subcontract financed in whole or in part with federal assistance provided by FTA and each such clause shall not be modified, except to identify the subcontractor who will be subject to the provisions.

3. Access to Records

- (1) In accordance with 49 C.F.R. 18.36(i), the Contractor shall provide the City, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions. Pursuant to 49 C.F.R. 633.17, the Contractor shall provide the FTA Administrator or his authorized representatives including any PMO contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

- (2) Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy such excerpts and transcriptions as are reasonably needed.
- (3) Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case the Contractor agrees to maintain same until the City, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
- (4) FTA does not require the inclusion of these requirements in subcontracts.

4. Federal Changes

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the City and the FTA, as they may be amended or promulgated from time to time during the term of the Contract. Contractor's failure to so comply shall constitute a material breach of the Contract.

5. Civil Rights

The following requirements apply to this Contract:

- (1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor shall comply with applicable Federal implementing regulations and such other implementing requirements FTA may issue.
- (2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:
 - (a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect construction activities undertaken in the course of the project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor shall comply with any implementing requirements FTA may issue.
 - (b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor shall comply with any implementing requirements FTA may issue.

- (c) **Disabilities** - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor shall comply with any implementing requirements FTA may issue.
- (3) The Contractor shall include these requirements in each subcontract financed in whole or in part with federal assistance provided by FTA, modified only if necessary to identify the affected parties.
- (4) For assistance with a contract clause incorporating the requirements of the new DBE rule in 49 CFR Part 26, contact the FTA HelpLine at www.ftahelpline.com.

6. Incorporation of FTA Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by the U.S. Department of Transportation (DOT), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in the contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any requests of the City that would cause the City to be in violation of the FTA terms and conditions.

7. Debarment and Suspension

In accordance with the U.S. Office of Management and Budget (OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)" 2 C.F.R. Part 180 and U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. Part 1200, Contractor must provide certification that neither it nor its "principals" are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency. Contractor, as a condition of responsiveness, shall submit with their bid submittal a completed "Debarment and Suspension" form, which is attached below. Contractor shall also include these requirements in each subcontract exceeding \$25,000 financed in whole or part with federal assistance provided by FTA.

8. Buy America

The Contractor shall comply with 49 U.S.C. 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and small purchase (currently less than \$100,000) made with capital, operating, or planning funds.

Contractor, as a condition of responsiveness, shall complete and submit the "Buy America" certification form with their bid. The form to complete is attached below.

9. Lobbying

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or

employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient. The "Lobbying Certification" form, attached below, must be completed, signed and submitted with Contractor's bid.

10. Clean Air

The Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor shall report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The Contractor shall also include these requirements in each subcontract exceeding \$100,000 financed in whole or part with federal assistance provided by FTA.

11. Clean Water

The Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. Contractor shall report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The Contractor shall also include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

12. Cargo Preference – Use of United States-Flag Vessels

Contractor shall: (a) use privately owned United States flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners and tankers) involved, whenever shipping any equipment, material or commodities pursuant to the Contract, to the extent such vessels are available at fair and reasonable rates for United States - Flag commercial vessels; (b) furnish within twenty (20) working days following the date of loading for shipments originating within the United States or within thirty (30) working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "onboard" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, D.C. 20590, and to the City, the FTA recipient (through the Contractor in the case of a subcontractor's bill-of-lading); and, (c) include these requirements in all subcontracts issued pursuant to this Contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

13. Fly America

Contractor shall comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. If a foreign air carrier was used, Contractor shall submit an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor shall include the requirements

of this section in all subcontracts that may involve international air transportation.

14. Energy Conservation

Contractor shall comply with mandatory standards and policies relating to energy efficiency that are contained in the State of Arizona Energy Conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).

15. Recycled Products

The Contractor agrees to comply with all the requirements of §6002 of the resource Conservation and Recovery Act, as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

16. Privacy Act

Contracts Involving Federal Privacy Act Requirements - The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

- A. Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
- B. Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

17. Access Requirements for Persons with Disabilities (ADA)

Contractor agrees to comply with the requirements of 49 U.S.C. § 5301(d) which expresses the federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement those policies. Contractor also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, and with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires the provision of accessible facilities and services, and with the following federal regulations, including any amendments thereto.

Debarment and Suspension Certification for Prospective Contractors

Primary covered transactions must be completed by Contractor for contract value over \$25,000.

Choose one alternative:

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

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
2. Have not within a three-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or Contract under a public transaction; violation of federal or state antitrust statutes or commission or embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in Paragraph 2 of this certification; and
4. Have not within a three-year period preceding this Contract had one or more public transactions (federal, state or local) terminated for cause or default.

OR

The Contractor is unable to certify to all of the statements in this certification, and attaches its explanation to this certification. (In explanation, certify to those statements that can be certified to and explain those that cannot.)

The Contractor certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of Title 31 USC § Sections 3801 are applicable thereto.

Executed in [insert city and state],
Name:

Authorized signature

Date

Lobbying Certification

This form is to be submitted with an offer exceeding \$100,000.

The Contractor certifies, to the best of its knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of a federal department or agency, a member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a member of the U.S. Congress in connection with the awarding of any federal Contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification thereof.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal Contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instruction, as amended by "Government-wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96).
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, USC § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

THE CONTRACTOR, Street Media Group LLC CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND DISCLOSURE, IF ANY. IN ADDITION, THE CONTRACTOR UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 USC §§ 3801 ET SEQ. APPLY TO THIS CERTIFICATION AND DISCLOSURE, IF ANY.

Name of the Contractor's authorized official: Gary Young

Title: CEO

Signature: [Handwritten Signature] Date: 9/21/15

Buy America Certification

This form is to be submitted with an offer exceeding the small purchase threshold for federal assistance programs, currently set at \$100,000.

Certificate of Compliance

The Contractor hereby certifies that it will comply with the requirements of 49 USC Section 5323(j)(2)(C), Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, and the regulations of 49 CFR 661.11:

Name and title: Gary Young, CEO
Company: Street Media Group, LLC

Authorized signature 9/2/15
Date

Certificate of Non-Compliance

The Contractor hereby certifies that it cannot comply with the requirements of 49 USC Section 5323(j)(2)(C) and Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, but may qualify for an exception to the requirements consistent with 49 USC Sections 5323(j)(2)(B) or (j)(2)(D), Sections 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act, as amended, and regulations in 49 CFR 661.7.

Name and title:
Company:

Authorized signature Date

EXHIBIT A SCOPE OF WORK

DEFINITIONS

Gross Revenue – means monies received by Contractor for advertising in the City.

Transit Furniture – means any amenities installed at bus stops, including, but not limited to: bus shelter, benches, trash receptacles, advertising kiosks, bike loop, lighting units, art structures and solar panels.

Shelter – means a structure constructed for maximum screening and surface airflow to provide shade for bus passengers, and includes the shelter, bench, and trash can. "Shelter" incorporates both "Advertising Shelter" and "Non-Advertising Shelter".

Advertising Shelter – means a shelter that includes one or more attached or detached kiosks, two display faces which are reserved for advertising materials to be supplied by Contractor and, in cases where a third display face exists, one display face will be reserved for the regional bus system map.

Non-Advertising Shelter – means a shelter that is not accompanied by any attached or detached advertising kiosk.

Pre-Emptible Space – Advertisement space that is given as a bonus or sold at a lower rate. These advertisements will be relocated as needed to accommodate advertisers paying the full rate and will be removed if no additional unsold space remains.

Cross-Read Panels – These advertising panels face away from the nearest lanes of oncoming traffic. The panels can be seen by traffic approaching in the opposite direction, but due to the distance to the other side of the street and the presence of medians, may be less visible than right-read panels, and consequently, it may be necessary to award these panels as bonus panels or sell at lower pre-emptible rates.

Right-Read Panels – These advertising panels face toward the nearest lanes of oncoming traffic and represent more visible advertising space than cross-read panels. Consequently, these panels should be sold at the full advertising rate.

Bonuses – Additional advertising space given to advertisers purchasing advertising space on a City of Chandler transit advertising panel. Bonuses will only be given when an advertiser has paid the full advertising rate. All bonus advertisements are pre-emptible space.

One Way Shelter – An advertising shelter that has two advertising panels that both face the same direction. These shelters have two right-read panels, both of which should be sold at the full advertising rate.

SCOPE OF WORK

It is the intention of the City of Chandler to enter into a contract with a company who will advertise at City-owned transit shelters, share advertising revenue with the City, and perform cleaning and basic maintenance services of City-owned transit shelters/furniture at no cost to the City.

The Contractor shall furnish, either themselves or through a subcontractor(s), all necessary labor, tools, equipment, and supplies to perform the basic routine maintenance services to all existing and future Chandler bus stops, bus shelters, the Transit Center located at Chandler Fashion Center, and the Chandler Park and Ride.

Basic Cleaning

Routine maintenance shall include basic cleaning of all bus stops at the frequency shown in the "Basic Cleaning and Power Washing Frequency" table below. Basic cleaning shall mean picking up and disposing of litter in and around (includes shelter pad plus a minimum ten feet beyond each end of the shelter pad and a minimum five feet beyond the depth of the shelter pad) each area, removing trash from trash cans and replacing trash can liners, wiping down shelter and benches, removing gum, stickers and non-transit related signs and posters from shelter furniture and bus stop sign, and inspecting for any additional cleaning/maintenance needs.

Power Washing

Bus stop locations shall be power washed at the frequency shown in the "Basic Cleaning and Power Washing Frequency" table below. Prior to power washing, Contractor shall pick up trash and debris within the

maintenance area and sweep debris from concrete transit pad and gutter. Power washing entails cleaning the shelter, benches, trash cans and trash can lids, gutter, accessories, interior sidewalk and bus platform with high-pressure water and wiping everything down, including advertising displays and bus schedule holders, to prevent water spots. In order to prevent damage to lighting systems and digital message signs (DMS), power washing shall not be done on ceiling panels, roof, or within three feet of DMS signs. Ceiling panels, battery boxes, solar panels, DMS signs and other high-reach areas shall be wiped clean a minimum of once every four months, or more often if requested by City.

Non-Routine Cleaning

Contractor will be required to perform non-routine cleaning visits to bus stops when Contractor or City Staff notices or when a resident complains of a cleanliness issue at a bus stop. Contractor must perform all non-routine cleaning visits within one business day of being notified by City. Non-routine cleaning may include trash/litter removal, power washing, graffiti/poster/flyer/sticker removal, broken glass cleanup, and similar cleaning activities. Non-routine cleanings shall be conducted at no charge to City.

Cleaning Frequency

The various bus stops in Chandler have vastly differing usage characteristics, and thus, require varying cleaning frequencies. The table below specifies the minimum frequency at which each type of stop shall be cleaned. The City has provided the Contractor with a list of bus stop locations, including the initial activity level classification of each stop. The City may reclassify bus stops to different activity levels throughout the duration of the contract, however the City will try to maintain certain percentages in each category as specified in the "Additional Cleaning Levels" section below. The City will update the bus stop list as bus stops are added and as activity level classifications change.

Basic Cleaning and Power Washing Frequency

Stop Activity Level	Quantity*	Basic Cleaning	Power Wash
High-Activity Bus Stops	27	3/ week	3 times every 2 weeks
Medium-Activity Bus Stops	104	2/ week	1/ week
Low-Activity Bus Stops**	76	1/ week	1 time every 2 weeks
Bus Stop Sign Only	92	1/ month	2 times/ year

*Quantities shown are approximate existing quantities. Quantities are subject to change as cleaning needs change and as the City adds or removes bus stops.

Regular cleanings must be evenly spaced to reduce the amount of time between cleanings. For example, Low Activity bus stops should be cleaned on the same day every week rather than being cleaned on Monday one week and on Friday the following week.

Power washings and basic cleanings may be conducted separately or may be combined into the same visit.

High Activity Bus Stops

Basic cleaning shall be performed at High Activity bus stops a minimum of three times per week, as directed by City. Power washing shall be performed at High Activity locations a minimum of three times every two weeks.

If the City finds that this cleaning frequency is insufficient for any High Activity stops, the City may require Contractor to conduct basic cleanings four times per week and power washes two times per week at such stops.

Medium Activity Bus Stops

The majority of bus stops with shelters are classified as Medium Activity stops. Basic cleaning shall be performed a minimum of twice per week and power washing shall be performed a minimum of once per week at Medium Activity stops.

Low Activity Bus Stops

Low Activity bus stops are stops with shelters or stops with benches and trash cans that do not experience as heavy a volume of boarding activity as other stops with bus shelters or benches and trash cans. Therefore, these stops do not need the same cleaning frequency as High Activity or Medium Activity stops.

Basic cleaning shall be performed a minimum of once per week and power washing shall be performed a minimum of once every two weeks at Low Activity bus stops.

Bus Stop Sign Only Locations

Bus stop sign only locations (some locations also include a bench) do not include trash cans and only need infrequent cleaning. Contractor shall clean these locations a minimum of once per month. At these locations, Contractor shall pick up and dispose of all litter at and around (radius of fifteen feet) the bus stop sign. If a bench is present, Contractor shall also pick up litter on and around bench (radius of fifteen feet), wipe down bench, remove any gum or stickers, and check for any additional maintenance needs. Power washing shall be conducted two times per year at these locations.

There are 3 bus stop sign only locations without trash cans that have high ridership and need to be visited more frequently. Contractor shall clean these stops (as described in the above paragraph) once per week.

As transit furniture is added to bus stop sign only locations, stops will be reclassified to Low or Medium Activity bus stops and will need to be cleaned as required for the new classification.

Shelter Furniture Expansion

As Chandler’s transit system and ridership grows, the City may add new bus stops, install new advertising bus shelters, and/or install non-advertising shelters or other transit furniture.

In the first year of this agreement, the City anticipates adding approximately 14 new shelters to the current inventory. The Contractor is responsible for selling and filling any new advertising kiosks and for cleaning any new transit furniture upon installation by City.

The City will consult the Contractor on the location of new transit advertising furniture, but due to constraints and/or ridership demands, may need to install transit furniture in a location not preferred by Contractor.

Currently, there are approximately 26 locations with a trash can and bench or shelter that do not have an advertising kiosk. As the number of bus stops and shelters increases, the City will make every effort to include advertising kiosks at all new bus shelter locations, but due to right-of-way or other constraints, the City may not be able to include an advertising kiosk at every new bus shelter or bench/trash can location.

Additional Cleaning Levels

As usage of the City’s transit system grows, the City may find it necessary to change the activity level classifications of some bus stops and/or require additional cleaning frequencies at some High Activity locations. The City will attempt to maintain the following targeted percentages:

Stop Type/ Activity Level	Targeted Percentage of All Bus Stops	Number of Bus Stops Based on Current Inventory
High-Activity Bus Stops	10% or less	30 or less
Low-Activity Bus Stops	25% or more	75 or more
Non-Advertising Location with Trash Can	9% or less	27 or less

If the classifications fall outside of these Targeted Percentages or if City requires additional cleaning at High Activity Bus Stops (4 basic cleanings and 2 power washes/week), the Contractor shall conduct the cleanings

as required by City and may deduct \$10 per additional cleaning from the monthly revenue payment made to the City.

Chandler Transit Center (at Chandler Fashion Center)

Contractor is responsible for emptying all trash cans and picking up all litter on site and in bus bays, cleaning all shelter and seating furniture and water fountains, as outlined in the Basic Cleaning section above, three to four times per week, as directed by City. Contractor is responsible for power washing shelter, seating furniture and passenger platforms one to two times per week, as described in the Power Washing section above, as directed by City.

At this location, Contractor is not responsible for landscaping, cleaning or maintaining the restroom building, repairing lighting, painting, or structural repairs to passenger facilities. However, Contractor is responsible for notifying City if lighting is not working properly or of any other needed repairs.

Chandler Park and Ride

Contractor is responsible for emptying all trash cans at the Park and Ride, including four trash cans in the passenger platform areas and six trash cans in the parking lot area. Contractor shall pick up litter in the passenger platform and bus bay areas, clean all shelter and seating furniture and water fountains, as outlined in the Basic Cleaning section above, a minimum of two to three per week, as directed by City. Contractor is responsible for power washing shelter and seating furniture and passenger platforms one to two times per week, as described in the Power Washing section above, as directed by City.

Twice per month, the Contractor will be required to pick up litter in the parking lot area. Contractor will also be responsible for cleaning the inside of bike lockers once per month.

At this location, Contractor is not responsible for maintaining or cleaning security/restroom building, parking lot sweeping, picking up litter in landscaped and irrigation areas, cleaning/maintenance of parking canopies, repairing lighting or structural repairs to passenger facilities or artistic structures. However, Contractor is responsible for notifying City if lighting is not working properly or of any other needed repairs.

Lighting Inspections

Contractor shall inspect the functionality of lighting units on bus shelters when it is dark outside. If Contractor cleans bus shelters before sunrise or after sunset, Contractor should note whether or not lighting unit was functional. Contractor should rotate its cleaning schedule to maximize the number of shelters visited while it is dark outside. All lighting units at bus shelters shall be inspected and the status reported to City a minimum of three times per year. Contractor shall report lighting problems to City within one week of noticing the problem.

Additional Cleaning/Maintenance Services

The Contractor shall inspect shelter conditions with each basic cleaning and also respond to cleaning needs and perform the following tasks when needed:

- a) Examination and adjustment or replacement of kiosk posters, route information, and shelter graphics, as necessary. All advertising materials, including posters and transparent protective coverings, shall be kept in a clean and attractive condition acceptable to the City.
- b) Pruning, weed abatement, raking of leaves;
- c) Removal of all graffiti, including the removal of stickers, flyers and business cards posted to the shelter;
- d) Remediating bug/pest problems;
- e) Remove/return shopping carts within 15' of any bus stop as necessary.
- f) Cleanup of broken glass and/or any other safety concern;
- g) Changing light bulbs;
- h) Paint touch-up;
- i) Changing bus schedules up to two times per year (See section below for details).
- j) Changing regional 4'x6' maps up to two times per year.

The Contractor shall perform tasks a) through f) within one business day of noticing the need or when requested by the City. Tasks g) and h) shall be performed within five business days of noticing the need or when requested by City. Additionally, Contractor shall provide City with an on-call number that can be utilized

in the event that an unsafe situation needs to be addressed prior to the next business day.

Bus Schedule and Regional Map Changing

Contractor will change out regional maps and old bus schedules for new maps and bus schedules each time the schedule changes (maximum twice per year). City will provide new maps, new schedules and new plexiglass covers to replace any damaged or faded plexiglass covers on the bus schedule holders. Contractor is responsible for replacing any damaged or faded plexiglass cover for the 4'x6' map display. Currently, there are approximately 260 bus schedule holders in the City and approximately 105 map displays. However, not all bus routes undergo schedule changes twice per year. All schedules needing to be changed shall be changed on the morning the schedule change becomes effective or the weekend prior to the schedule change becoming effective (schedule changes occur on Mondays). Alternatively, schedules may be changed the day of the schedule change and one business day before the schedule change becomes effective. Contractor is strongly encouraged to change schedules the weekend prior to schedule change. Maps shall be changed within three business days (before or after) of schedule change.

Transparent Advertising Kiosk Covers

Contractor shall be responsible for removing and replacing transparent advertising kiosk covers that have been damaged by graffiti or vandalism or that have been damaged by excessive sun exposure or that otherwise do not appear to be in a clean and attractive condition acceptable to the City.

Utilities

Contractor shall be responsible for waste disposal and water refill. The Contractor is encouraged to find a location situated along a major Chandler transit route to maximize efficiency. However, if Contractor cannot find a suitable location, for a fee of \$30 per month, Contractor may dispose waste and refill water at a City facility located near the intersection of Ryan Rd. and McQueen Rd.

The Contractor shall also be responsible for utility costs associated with lit advertising kiosks. Approximately 30 kiosks are lit. At the 12 Bus Rapid Transit (BRT) Stations at major intersections along Arizona Avenue, the electric meter is in the City of Chandler's name. At these locations, the Contractor will reimburse City for the electricity cost to light kiosks if the Contractor wishes to continue lighting these kiosks. The City will be responsible for other electricity costs at BRT stations. In other locations, the electric meter will be in Contractor's name, and Contractor will be responsible for directly paying electric bills if Contractor wishes to continue using electric lighting for kiosks. The City will utilize the Guaranteed Bonus Revenue, as identified on Exhibit B/Fee Schedule to the Agreement, to purchase and install solar lighting units for non-lit advertising kiosks. City, or its licensed contractor, shall be solely responsible for the installation of any solar lighting unit installed pursuant to this Utilities paragraph. Contractor is responsible for ongoing maintenance costs for these new lighting units and any existing lighting units. If maintenance on existing or new lighting units involves any work requiring a contractor's license, the City or its licensed contractor will perform the work.

Additional Considerations

The Contractor shall perform all work so that minimal interference or disruption to traffic and to the public transit system occurs, including causing discomfort or inconvenience to passengers. Under no circumstances shall a site be left in an unsafe manner for any amount of time.

The Contractor is responsible for assuring that all work is conducted in a safe manner and that all cleaning/maintenance employees utilize proper safety practices and equipment, including but not limited to reflective safety vests, protective gloves, etc. When stopped in a City street, Contractor shall utilize a flashing light on top of service vehicle and place two cones behind service vehicle, as specified in Section IX "Service Vehicles" of the City of Chandler Traffic Barricade Design (Technical Design Manual #7).

Contractor shall ensure that service employees performing work at City transit facilities maintain a professional appearance and have proper identification.

The Contractor shall be responsible for any damage caused to property by the Contractor.

Transit Advertising Standards

It is the intent of the City that all transit advertising at City transit facilities are non-public forums and are to be set aside for commercial advertisements or for public announcements as provided by the City. The City's primary purpose for transit advertising is the generation of revenue.

It is a guideline of the City of Chandler that no advertising will be accepted on any transit facility that does not comply with the following standards.

1. The subject matter of, and the speech in, the advertisement must be limited to a proposed commercial transaction.
2. The advertisement may not:
 - a. Be false, misleading, or deceptive.
 - b. Relate to an illegal activity.
 - c. Contain explicit sexual material, obscene material, or material harmful to minors as these terms are defined in Title 13, Chapter 35, Arizona Revised Statutes.
 - d. Represent, by language or graphics, a nude or seminude person, as those terms are defined in Section 13-3501, Arizona Revised Statutes, or the exposed buttocks of any person.
 - e. Depict, relate to, or reference a website or other medium that relates to specified sexual activities or specified anatomical areas as those terms are defined in Section 13-3501, Arizona Revised Statutes.
 - f. Depict violence and/or anti-social behavior.
 - g. Hold up individuals or groups of people to public ridicule, derision, or embarrassment.
 - h. Include language, which is obscene, vulgar, profane, or scatological.
 - i. Advertise alcohol, tobacco, nicotine or other smoking products.

Advertising Content Responsibilities

Contractor shall be responsible for the content of all advertising to be displayed in the transit advertising furniture, and the Contractor shall use the above Transit Advertising Standards as a basis for accepting advertising content for posting. The Contractor shall have the right to reject any non-compliant advertising. Contractor shall hold the City harmless from all litigation regarding its sale of advertising and Contractor's determination of the acceptability of advertising content.

The City reserves the right to require Contractor to remove any advertisement that is in violation of the Transit Advertising Standards. The City will hold the Contractor harmless from litigation resulting from City's direction to the Contractor to reject advertising because of content.

Any advertisement that may not meet Transit Advertising Standards may be submitted to the City's designated contract administrator for review and approval by the City. The City shall acknowledge receipt of the advertisement through an email reply as soon as possible. If the City has not acknowledged receipt of advertisement within two working days, the Contractor must submit the advertisement to the City's alternate contact. The City shall be given ten working days from the day of the Contractor's original request to provide a response. The City's response may consist of requiring changes in copy, visuals or other materials so that the advertisement is acceptable to community standards. A response may have the determination that further review by the City is necessary and may result in an extension past the initial response time. If the City has acknowledged receipt of advertisement and has not provided a response within ten working days of the Contractor's original request for review, such design and copy shall be deemed approved.

In the event the City rejects an advertisement for failing to comply with the Advertising Standards and also in circumstances where the Contractor appropriately applies the Advertising Standards, the City will agree to indemnify the Contractor for any First Amendment claims, suits or actions arising by virtue of the City rejection of the advertisement or arising from the Contractor's proper application of the City Advertising Standards.

Where the Contractor misapplies the City Advertising Standards, the City will not indemnify the Contractor for any First Amendment claims, suits or actions arising by virtue of the Contractor's misapplication of the Advertising Standards.

Nothing in this section shall be deemed to restrict the City from using its allocation of advertising space to advertise public events.

The City shall be guaranteed use of ten percent of all advertising space to promote City functions and programs with the understanding that, when there is no other space available for an advertising client of the Contractor, Contractor may request permission of City to utilize the space reserved for the City, and the City shall not unreasonably withhold permission for such use.

Advertisements shall be fully contained within four foot by six foot kiosk poster display area unless otherwise agreed to by City. In any cases where the City allows advertising in addition to the 4'x6' poster area within the kiosk (such as an advertisement attached to the shelter shade screen), Contractor shall provide to City a minimum of 40% of the revenue generated from such advertisements (Contractor may propose a higher percentage share). City may require a higher revenue share percentage, depending on size and appearance of advertisement. City has the right to prohibit any advertisement outside the four foot by six foot kiosk poster display area for any reason. Additionally, City may require Contractor to remove such advertisements with 10 working day advance notice.

Digital Advertisements

Digital advertisements may be considered at select locations and may only be installed with the written approval of the City. Digital advertisements shall not be overly bright, shall have dimmers at night, and shall not contain any video, flashing or moving elements. Digital advertisements must not be distracting or hazardous to drivers. Before any digital advertisement is approved, Contractor must provide specifics of proposed advertisement, including but not limited to brightness level at day and night and advertisement change frequency. The City may require additional information and/ or changes in the approach before approving. The City has the right to deny the installation and display of digital advertisements for any reason. The City has the right to require the Contractor to make changes to the digital advertisement or remove the digital advertisement if it is deemed unsafe. All costs associated with installing digital advertisement equipment and utility connections shall be the responsibility of the Contractor. The City shall receive a higher share of revenue for digital advertisements than for standard kiosk poster advertisements. This revenue share will be negotiated at the time Contractor is requesting permission to display digital advertisements.

Business and Sales Plan

Contractor shall make its best effort to gain maximum price for use of City's advertising display spaces. Contractor shall create a Business and Sales Plan on how the transit advertising program will be marketed and present it to the City within thirty days of the implementation of this Agreement. The Contractor shall be responsible for updating the Plan at least once per year, and providing updated copies to the City.

Barter and Trade Agreements

Contractor shall not trade or barter advertising display space on City transit advertising furniture. The Contractor shall not have the right to accept payment from clients for use of transit advertising furniture in the forms of goods, services, or other non-cash reimbursements.

Bonuses

Bonuses may be offered by the Contractor only when the client has a contract and made payment for advertising display space on City advertising furniture. In such case, Contractor shall not post additional displays exceeding the following limitations:

- 2-3 panel buy: Maximum 1 bonus panel
- 4-6 panel buy: Maximum 2 bonus panels
- 7-10 panel buy: Maximum 3 bonus panels
- 11-20 panel buy: Maximum 5 bonus panels
- 21+ panel buy: Maximum 7 bonus panels

Bonus panels offered to advertisers constitute pre-emptible space.

No bonus advertisements shall be offered in Chandler for space sold on billboards or on transit furniture in other cities.

Advertising Rates

Contractor shall establish and publish all advertising rates and keep a current copy on file with the City at all times.

For the first year of the agreement, advertising rates are as follows:

- 1 panel buy: \$284 per panel per period (4 weeks)
- 2-3 panel buy: \$277 per panel per period (4 weeks)
- 4-6 panel buy: \$254 per panel per period (4 weeks)
- 7-10 panel buy: \$245 per panel per period (4 weeks)
- 11+ panel buy: \$233 per panel per period (4 weeks)

Additionally, pre-emptible space on cross-read panels and up to 10% of right-read panels may be sold at lower rates as follows (no bonuses will be awarded for panels purchased at these rates):

- 1-3 panel buy: \$175 per panel per period (4 weeks)
- 4-6 panel buy: \$160 per panel per period (4 weeks)
- 7-10 panel buy: \$145 per panel per period (4 weeks)
- 11+ panel buy: \$125 per panel per period (4 weeks)

The rates listed above are valid for the first year of the contract. Rates should be increased in Contract years 2-5 but shall not be decreased.

Contractor must charge the current advertising rates or a higher premium rate as conditions warrant (lit advertising panel, high demand panel, etc.), unless approved by City in advance of posting. The City has no obligation to allow lower rates to be charged, but may consider allowing advertisements to be sold at lower rates than those posted above in the following cases:

- Advertisement panels with poor visibility,
- During the first six months of the contract to allow the Contractor to gradually transition to published advertising rates,
- During an economic recession in which the advertising market is experiencing considerable declines.

Filler Advertisements

When unsold advertising space exists, the Contractor shall work diligently to sell this space, following the Business and Sales Plan presented to the City. While these efforts are underway, the space shall be filled with City announcements if requested by the City. City will be responsible for the printing cost of all City advertisements. Contractor will be responsible for posting City advertisements in a timely manner. If additional unsold space remains, the Contractor shall display advertisements specifically promoting the Contractor's transit advertising program or advertisements for the regional public transit system.

Underperforming Advertisement Locations

Contractor may request to modify, relocate or remove advertising locations that have shown consistently low sales levels for a period of 12 months or longer. City shall retain final approval of any modifications, relocations or removals of advertising furniture. In the event that the City agrees to remove advertising at any stop, the bus shelter, benches and trash cans shall remain at the bus stop, and the Contractor will still be required to provide the same level of cleaning and maintenance as performed for advertising shelter locations.

Removal of Advertisements

Contractor shall remove advertisements within one month after expiration of client contract and should strive to remove and replace with a sold advertisement as soon as possible. Contractor also agrees to remove all dated advertising materials promptly (within five working days) after any date cited in the advertisement has passed. Old advertising must be completely removed before new materials are applied.

Reporting

With each monthly revenue payment submission, the Contractor will submit a report detailing the following:

- 1) **Payment Summary.** Contractor must provide number of advertising shelter locations, total gross monthly revenue earned, and whether the City's revenue share is based on the minimum guarantee per shelter or the percentage of net revenue. Contractor must also list the amounts added, if any, to payment for digital advertisements or advertisements in addition to the 4'x6' kiosk posters, and Contractor must list amount included for utilities. Contractor must also list the amount of guaranteed bonus revenue for lighting and shelters included in each payment. If Contractor charges for additional cleaning frequencies, Contractor must list amount deducted and number of shelters on which deduction is based.
- 2) **Client Contract Documentation.** Contractor must provide complete copies of client contracts, and must include the following information: name of client, name of product, duration of advertising campaign, number of faces purchased, price, number of bonus advertising spaces offered to client (if any), discounts offered or premiums charged and reason for deviation from advertising rate. Confidential information within client contracts can be excluded as long as this exclusion does not hinder the City's ability to validate rates charged and revenue collected by Contractor. Client contract documentation shall also be summarized into a table which provides each client name, number of faces purchased, average price paid per face by each client, and total monthly payment from each client.
- 3) **Current advertising rates.**
- 4) **Advertising Program Status.** Contractor shall submit a report detailing the most recent occupancy rate percentage for transit advertising furniture. Contractor is encouraged but not required to track high and low usage areas.
- 5) **Maintenance Information and Lighting Inspections.** Contractor shall provide a list of paint touchups, plexi-glass replacements, light bulb replacements, and any other maintenance work provided at each stop. Contractor shall list which shelter lighting units were inspected in the previous month and include the functionality of each lighting unit.

Each week, the Contractor shall email to City the weekly cleaning log showing which stops were cleaned and power washed each day, also indicating the time of day they were visited. The log must also include a list of additional cleaning service needs noticed at each stop and the day that these additional cleaning/maintenance services were performed. The list of stops included in the log shall include the stop's activity level (high, medium, low or sign only).

Annual Reconciliation

Within 60 days of the close of each contract year and of the close of the contract term, the Contractor shall provide the City with a report covering the reconciliation of ad sales revenues for the contract year in question. The report shall be prepared by an independent Certified Public Accountant at no cost to the City, and shall include a certified annual statement of income. In the event the reconciliation indicates an adjustment in the payments due to the City is required, any such adjustment and payments shall be made within ten business days of the submittal of the report.

**EXHIBIT B
FEE SCHEDULE**

Contractor shall provide a guaranteed dollar amount and a percentage of gross revenue generated from advertising and the greater of the two, shall be paid to the City on a monthly basis.

Guaranteed dollar amount per advertising shelter to be paid to the City monthly:

Year 1 (January 1 – December 31, 2016): \$50.00
Year 2 (January 1 – December 31, 2017): \$50.00
Year 3 (January 1 – December 31, 2018): \$50.00
Year 4 (January 1 – December 31, 2019): \$50.00
Year 5 (January 1 – December 31, 2020): \$50.00

Guaranteed percentage of gross revenue to be paid to the City monthly:

Year 1 (January 1 – December 31, 2016): %21
Year 2 (January 1 – December 31, 2017): %21.5
Year 3 (January 1 – December 31, 2018): %22
Year 4 (January 1 – December 31, 2019): %22.5
Year 5 (January 1 – December 31, 2020): %23

Guaranteed Bonus Revenue

In addition to the guaranteed revenue shown above (dollar amount per shelter or percentage of gross revenue, whichever is higher), Contractor shall provide guaranteed bonus revenue specifically to fund solar lighting and advertising shelter purchases.

Guaranteed bonus revenue to fund solar lighting to illuminate advertising kiosks shall be a minimum of \$3,333.33 per month during contract years two through five (\$160,000 total guaranteed minimum bonus revenue for lighting).

Guaranteed bonus revenue to fund the purchase of additional shelters shall be a minimum of \$3,906.25 per month during contract years two through five (\$187,500 total guaranteed minimum bonus revenue for shelter purchases). If the City agrees to utilize 85% or more of shelter bonus revenue to purchase one-way shelters, the guaranteed bonus revenue shall be \$4,427.08 per month during contract years two through five (\$212,500 total). If One-way shelters are purchased, the City will work with Contractor on a suitable design and locations that will best benefit transit passengers and advertising potential.

Bonus revenue shall be paid to the City on a monthly basis beginning in the first month of Year 2 of the Contract (January, 2017) and will continue until and include the last month of the Contract's initial term (December 2020). Alternatively, Contractor may choose to make one year's worth of bonus payments as a lump sum (\$40,000 for lighting and \$46,875 or \$53,125 for shelters) in the first month of each Contract year (years 2 – 5). Upon receiving one year's worth of bonus payments, the City will purchase and begin installation of solar lighting and new advertising shelters. Alternatively, the City may choose to make purchases and install lighting and shelters in advance of receiving a full year's worth of bonus payments.

Additional Revenue

Monthly revenue payments shall also include any additional revenue share from advertisements in addition to the 4'x6' posters in the advertising kiosk or from digital advertisements. Monthly revenue payment will also include utility payments, as applicable, to City. Contractor may deduct for additional cleanings as necessary.