

**AGREEMENT FOR CONTRACT SERVICES  
BETWEEN SOLANO COUNTY TRANSIT ("SolTrans") AND  
[CONTRACTOR NAME]  
FOR  
TRANSIT ADVERTISING PROGRAM**

**THIS AGREEMENT** is made and entered into as of \_\_\_\_\_, by and between the Solano County Transit, a joint powers entity organized under Government Code section 6500 et seq. ("SolTrans"), and [CONTRACTOR NAME], a California, LLC, (hereinafter "CONTRACTOR").

**RECITALS**

WHEREAS, SolTrans desires to obtain contract services to solicit and install Transit Advertising on its buses and bus shelters; and

WHEREAS, [CONTRACTOR NAME], LLC has the necessary professional expertise and skill to perform such services.

NOW, THEREFORE, the Parties agree as follows:

**SECTION 1. SCOPE OF SERVICES.**

CONTRACTOR shall perform those services specified in detail in EXHIBIT A, entitled "SCOPE OF SERVICES", which is attached to and incorporated into this Agreement.

**SECTION 2. TERM OF Agreement.**

The term of this Agreement shall be from July 1, 2019 to June 30, 2022, inclusive, subject to the provisions of SECTION 11 of this Agreement. The Term of this Agreement may be extended for two additional one-year option terms. Such options may be exercised by SolTrans at SolTrans' sole discretion, by providing written notice to CONTRACTOR of SolTrans' intent to extend the Agreement at least sixty (60) days prior to the then-current expiration date.

**SECTION 3. SCHEDULE OF PERFORMANCE.**

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

**SECTION 4. COMPENSATION.**

This is a revenue contract. Throughout the term of the Agreement, on a monthly basis, SolTrans shall receive a TBD% Revenue Share.

The Revenue Share calculation shall be based on net advertising space sales. SolTrans shall receive TBD% of the net advertising space sales. The industry standard for the definition of net advertising space sales will apply, i.e. gross sales revenue less all art, production and installation fees (“production costs”). In the event advertising materials must be removed or replaced due to changes mandated by content not meeting advertising guidelines, the net advertising space sales reported will not be further reduced by the cost of art, production, removal or replacement.

The rate and schedule of payment from CONTRACTOR TO SolTrans is set out in EXHIBIT \_\_\_\_, which is attached to and incorporated in by this reference.

**SECTION 5. METHOD OF PAYMENT.**

CONTRACTOR shall pay SolTrans on a monthly basis on or before the 20<sup>th</sup> of the month for the previous month’s Revenue Share. Each payment shall be accompanied by a statement setting forth the Revenue Share and the amortized production costs for that payment period.

**SECTION 6. INDEPENDENT CONTRACTOR.**

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

**SECTION 7. ASSIGNABILITY.**

The parties agree that the expertise and experience of CONTRACTOR are material considerations for this Agreement. CONTRACTOR shall not assign or transfer any interest in this Agreement nor the performance of any of CONTRACTOR's obligations hereunder, without the prior written consent of SolTrans, and any attempt by CONTRACTOR to so assign or transfer this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect.

**SECTION 8. INDEMNIFICATION AND WAIVER OF SUBROGATION.**

A. INDEMNITY.

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

B. OBLIGATION TO DEFEND.

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

C. INSURANCE POLICIES; TERMINATION.

Acceptance of insurance certificates or endorsements required by this Agreement does not relieve CONTRACTOR from liability under this SECTION 8 and shall apply to all damages and claims of every kind suffered, or alleged to have been suffered, by reason of CONTRACTOR's negligence, misconduct, or other legal fault regardless of whether or not such insurance policies shall have been determined to be applicable to any

of such damages or claims for damages. The provisions of this SECTION 8 shall survive any termination of this Agreement.

**SECTION 9. INSURANCE REQUIREMENTS.**

Contractor shall procure and maintain for the duration of this Agreement the following insurance:

**Minimum Scope of Insurance:**

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto). If Contractor owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Contractor or Contractor's employees will use personal autos on this project, Contractor shall obtain evidence of personal auto liability coverage for each person.
3. Workers' Compensation insurance as required by the State of California and Employer's Liability insurance.

**Minimum Limits of Insurance:**

CONTRACTOR shall maintain limits no less than:

1. General Liability: \$2,000,000 aggregate and \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$2,000,000 aggregate and \$1,000,000 per accident for bodily injury and property damage, combined single limit.
3. Employer's Liability: \$1,000,000 per accident for bodily injury or disease, and in the aggregate.
4. Errors and Omissions Liability: \$1,000,000 on a claims made basis.

**Deductibles and Self-Insurance Retentions:**

Any deductibles or self-insured retentions exceeding \$50,000 must be declared to and approved by SolTrans. At the option of SolTrans, either: the Contractor shall reduce or eliminate such deductibles or self-insured retentions regarding SolTrans, its officers, officials, employees and volunteers; or Contractor shall provide a financial guarantee satisfactory to SolTrans guaranteeing payment of losses and related investigations, claim administration and defense expenses.

**Other Insurance Provisions:**

The general liability and automobile liability policies must contain, or be endorsed to contain, the following provisions:

1. SolTrans, its officers, officials, employees and volunteers be covered as insureds regarding the liability arising out of automobiles owned, leased, hired or borrowed by or for the Contractor, and regarding liability arising out of work or operations by or for the Contractor including materials, parts or equipment furnished with such work or operations. General liability coverage can be in an endorsement to the Contractor's insurance or as a separate owner's policy.
2. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects SolTrans, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the SolTrans, its officers, officials, employees and volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
3. Should the above described policies be cancelled prior to the policies' expiration date, Contractor agrees that notice of cancellation will be delivered under the policy provisions.

**Acceptability of Insurers:**

Insurance is placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to SolTrans.

**Verification of Coverage:**

Contractor shall furnish SolTrans with original certificate and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by SolTrans or on other than SolTrans' forms, provided those endorsements or policies conform to the requirements stated in this clause. All certificates and endorsements must be received and approved by SolTrans before work commences. SolTrans reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting coverage required by these specifications.

**All insurance documents are to be sent to:**

Solano County Transit  
 Attn: SolTrans Legal Counsel  
 311 Sacramento  
 Vallejo, CA 94590

**Sub-Contractors:**

Contractor shall include all sub-contractors as insureds under its policies or shall furnish separate certificates and endorsements for each sub-contractor. All coverages for sub-contractors shall be subject to all of the requirements stated above unless specifically waived by SolTrans in writing.

**Forms of Endorsement:**

Endorsements shall include the following provisions. SolTrans understands and agrees that variations in language may occur:

THIS ENDORSEMENT, EFFECTIVE \_\_\_\_\_ A.M. \_\_\_\_\_, 201\_\_, FOR  
 POLICY NUMBER \_\_\_\_\_, IS ISSUED TO THE SOLANO COUNTY TRANSIT BY  
 \_\_\_\_\_ FOR (PROJECT DESCRIPTION OR  
 TITLE) \_\_\_\_\_.

ADDITIONAL INSURED

IT IS UNDERSTOOD AND AGREED THAT SOLTRANS, ITS OFFICERS, OFFICIALS, EMPLOYEES AND VOLUNTEERS ARE NAMED AS ADDITIONAL INSUREDS ON THE GENERAL AND AUTOMOTIVE LIABILITY INSURANCES.

PRIMARY INSURANCE

IT IS FURTHER UNDERSTOOD AND AGREED THAT THE INSURANCE AFFORDED BY THIS POLICY SHALL BE CONSIDERED PRIMARY INSURANCE AS RESPECTS ANY OTHER VALID AND COLLECTIBLE INSURANCE SOLTRANS MAY POSSESS, INCLUDING ANY SELF-INSURED RETENTION THE SOLTRANS MAY HAVE, AND ANY OTHER INSURANCE SOLTRANS DOES POSSESS SHALL BE CONSIDERED EXCESS INSURANCE ONLY.

CANCELLATION CLAUSE

NOTICE OF CANCELLATION SHALL BE GIVEN TO SOLTRANS IN THE EVENT OF CANCELLATION AND/OR REDUCTION IN COVERAGE OF ANY NATURE IN ACCORDANCE WITH THE TERMS OF THE POLICY. SUCH NOTICE SHALL BE SENT TO:

Solano County Transit  
Attn: SolTrans Legal Counsel  
311 Sacramento  
Vallejo, CA 94590

THIS PARAGRAPH SUPERSEDES THE CANCELLATION CLAUSE IN THE CERTIFICATE OF INSURANCE.

ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED.

\_\_\_\_\_  
Authorized Representative

**SECTION 10. NONDISCRIMINATION.**

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

**SECTION 11. TERMINATION.**

- A. CONTRACTOR or SolTrans shall have the right to terminate this Agreement, in whole or in part, by either party, without cause, by giving not less than sixty (60) days' written notice of termination.
- B. Upon the expiration or early termination of this Agreement, CONTRACTOR agrees to assign to SolTrans all advertising contracts on SolTrans buses and bus shelters for advertising produced and provided, and such contracts shall there upon become property of SolTrans. For a period

sixty (60) days following the expiration of this Contract, SolTrans agrees to pay CONTRACTOR twenty (20) percent of the Revenue Share on advertising space from such contracts that extend beyond the expiration or early termination of the Agreement, plus all of CONTRACTOR'S unrecovered amortized production of such advertising contracts. All pertinent contracts, billing and account information for purposes of assigning accounts will be provided by CONTRACTOR TO SolTrans. Upon mutual agreement SolTrans and CONTRACTOR may meet in good faith to determine a lump sum payment to CONTRACTOR to reimburse CONTRACTOR for estimated unrecovered amortized advertising production costs and provide a Revenue Share of twenty percent (20%) for sixty (60) days following early termination of the Agreement.

- C. Any payment to CONTRACTOR of Revenue Share pursuant to this section shall be made by SolTrans within sixty (60) days following the expiration or early termination of the Contract, unless otherwise agreed, in writing, by the parties.
- D. If the Agreement is terminated prior to expiration of the term, CONTRACTOR shall be paid its costs as provided in Section 11.B hereinabove, on work performed up to the time of termination, unless this Agreement is terminated due to CONTRACTOR's default. SolTrans shall not be responsible for payment for any work performed after the time of termination. After termination, CONTRACTOR shall promptly submit to SolTrans its invoice for unrecovered amortized production costs.
- E. If CONTRACTOR fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, SolTrans may terminate this Agreement immediately upon written notice.
- F. SolTrans may terminate this Agreement immediately, upon written notice, if any challenge is made to SolTrans' Advertising Policy, or any federal, state, or local, statute, regulation, ordinance, ruling, determination, order, or direction, invalidates in whole or in part SolTrans' Advertising Policy.
- G. SolTrans' authorized designee is empowered to terminate this Agreement on behalf of SolTrans.

H. In the event of termination, CONTRACTOR shall deliver to SolTrans copies of all existing advertising contracts, reports, documents, and other work performed by CONTRACTOR under this Agreement.

**SECTION 12. GOVERNING LAW.**

SolTrans and CONTRACTOR agree that the law governing this Agreement shall be that of the State of California.

**SECTION 13. COMPLIANCE WITH LAWS.**

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

**SECTION 14. CONFIDENTIAL INFORMATION.**

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

**SECTION 15. OWNERSHIP OF MATERIALS.**

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

**SECTION 16. WAIVER.**

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

**SECTION 17. CONTRACTOR'S BOOKS AND RECORDS.**

A. CONTRACTOR shall maintain any and all ledgers, books of account, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to SolTrans for a minimum period of four (4) years, or for any longer period required by law, from the date of final payment to CONTRACTOR pursuant to this Agreement.



B. CONTRACTOR shall maintain all documents and records which demonstrate performance under this Agreement for a minimum period of four (4) years, or for any longer period required by law, from the date of termination or completion of this Agreement.

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

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

**SECTION 18. CONFLICT OF INTEREST.**

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

**SECTION 19. NOTICES.**

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

**TO SolTrans:** Solano County Transit  
311 Sacramento  
Vallejo, CA 94590  
ATTENTION: Beth Kranda, Executive Director

**TO CONTRACTOR:** [FIRM NAME]  
[FIRM ADDRESS]  
[CITY, STATE ZIP]

ATTENTION: [FIRM REPRESENTATIVE AND TITLE]

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

**SECTION 20. VENUE.**

In the event that suit shall be brought by either party to this Agreement, the parties agree that venue shall be exclusively vested in the state courts of the County of Solano.

**SECTION 22. INTERPRETATION.**

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

**SECTION 23. SIGNATOR'S WARRANTY.**

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

**SECTION 24. PRIOR AGREEMENTS AND AMENDMENTS.**

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

**The parties have executed this Agreement as of the date first written above.**

APPROVED AS TO FORM:

"SolTrans"

By: \_\_\_\_\_  
SolTrans Legal Counsel

By: \_\_\_\_\_  
Beth Kranda, Executive Director

"CONTRACTOR"

[FIRM NAME, a California LLC"]

By: \_\_\_\_\_

NAME, TITLE

SAMPLE

**EXHIBIT A**

**SCOPE OF SERVICES**

CONTRACTOR shall provide any and all Transit Advertising Services (set forth below), in accordance with its written proposal dated \_\_\_\_\_, 2019, attached as Exhibit \_\_\_\_, in order to generate the maximum amount of revenue possible from the sale and placement of advertising on buses and transit related facilities, subject to SolTrans' adopted Advertising Policy.

SAMPLE