

Agreement for Professional Services

This Agreement (“Agreement”) is made and entered into this ____ day of _____, 2019 by and between the Tuolumne County Transit Agency (“TCTA”), a California joint powers authority, and _____, a sole proprietorship (“Contractor”).

1. Agreement Documents

1.01 The total agreement between the parties consists of this Agreement and the following additional documents, copies of which are attached hereto and incorporated herein by this reference:

- A. Request for Proposals, dated *February 21, 2019*, including Addenda, if any.
- B. Standard Insurance Requirements, attached hereto as Exhibit A.
- C. FTA-DOT Required Provisions, attached hereto as Exhibit B.
- D. Debarment and Suspension Certification, attached hereto as Exhibit C.
- E. Lobbying Certification, attached hereto as Exhibit D.
- F. Contractor’s Proposal and Rate Schedule, as accepted by the TCTA, attached hereto as Exhibit E.
- G. Any Work Orders issued pursuant to Section 3.01 of this Agreement.

In the event of a conflict or ambiguity arising between such documents or any term therein, the document executed later in time shall prevail over the document executed earlier in time.

1.02 The documents described in Section 1.01 are the “Agreement Documents.”

2. Recitals

2.01 The TCTA desires to enter into an agreement for managing all aspects of an Advertising program for the exterior and interior of Tuolumne County Transit buses; and,

2.02 The TCTA has determined *Advertising Sales Program management* involves the procurement of professional services; and,

2.03 Contractor has responded to the TCTA’s Request for Proposals soliciting proposals for *Advertising Sales Program Management*, hereinafter referred to as the “Project;” and,

2.04 Contractor hereby represents that it is in the business of, and fully qualified in, the field of *advertising sales program management*, and is fully willing and able to satisfy the

requirements of the TCTA by performing this Agreement at the costs specified herein, and with the level of service and operating quality specified herein. The TCTA awarded this Agreement in reliance on such representations, and on Contractor's particular skills, experience and abilities as represented by Contractor in their Proposal; and,

- 2.05** The TCTA and Contractor intend to enter into an agreement for the furnishing of certain articles and services for the consideration hereinafter set forth.

The TCTA and Contractor, for the consideration hereinafter described, mutually agree as follows:

- 3. Scope of Work:** This is a non-exclusive Master Agreement setting forth the terms under which Contractor will provide assistance with Advertising Sales Program Management. Specific project descriptions will be contained in Work Orders prepared pursuant to Section 3.01.

3.01 The scope of work includes the sales of advertising space on both the exterior and interior of Tuolumne County Transit buses. Furthermore, the contractor is responsible for coordinating the design and application of all advertisements on TCT vehicles.

- 4. Effective Date/Term:** This Agreement shall be effective from the date first written above and shall expire three (3) years after the date of execution or the completion of any Work Orders issued pursuant to Section 3 of the Agreement, whichever is later, unless this Agreement is extended by a written amendment.

- 5. Completion of Work:** The Contractor agrees to commence work upon execution of this Agreement and receipt of each Work Order and written notice to proceed from the TCTA Executive Director and perform and complete the project within sixty (60) calendar days from receipt of the notice to proceed or according to the instructions of the Work Order.

5.01 Suspension, Delay or Interruption of Work: The TCTA may suspend, delay or interrupt the services of the Contractor for the convenience of the TCTA. In the event of force majeure or such suspension, delay or interruption, an equitable adjustment in the Project's schedule, commitment and cost of Contractor's personnel and subcontractor, and Contractor's compensation will be made.

- 6. Additional Services:** For additional services not outlined in Section 3 above, a separate Scope of Work describing the scope, schedule, fee and work products will be negotiated by the TCTA and the Contractor and approved as written amendments to this Agreement prior to any additional work effort being commenced upon.

- 7. Professional Standards:** Contractor warrants and guarantees that the work provided under this Agreement shall be performed and completed in a professional manner. All services shall be performed in the manner and according to the professional standards observed by a competent practitioner of the profession in which Contractor and any subcontractor are engaged.

- 8. Performance:** Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for the satisfactory accomplishment of the Contractor's obligations under this Agreement. Performance of services shall comply with the schedule set forth in the Agreement Documents. A time extension may be granted in the event that acts or omissions by the TCTA cause delay. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.
- 9. Work Standard:** The TCTA has relied upon the professional training and ability of the Contractor to perform the services hereunder as a material inducement to enter into this Agreement. The Contractor shall, therefore, provide properly skilled professional and technical personnel to perform all services under this Agreement. All work performed by the Contractor under this Agreement shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in the Contractor's field of expertise. The Contractor shall be responsible for ensuring any approved subcontractor adheres to this same work standard.
- 10. Personnel:** Contractor shall assign only competent personnel to perform services pursuant to this Agreement. Contractor shall provide all staff necessary to completion of services under this Agreement. The Contractor's Project Team identified in their Proposal shall be the Project Team for the duration of the project unless TCTA agrees to accept replacement personnel. In the event that the TCTA, at its sole discretion, at any time during the term of this Agreement, desires the removal of any person or persons assigned by Contractor to perform services pursuant to this Agreement because of their incompetence, Contractor shall remove any such person(s) immediately upon receiving notice from the TCTA of the desire of the TCTA for the removal of such person(s).
- 11. Independent Contractor:** In providing the services as set forth in the Agreement Documents, Contractor shall act as an independent Contractor and not as an employee of the TCTA. In accordance with that relationship, Contractor shall assume all responsibility for its employees for Federal and State income tax withholding, FICA, SDI and any other deductions from income that Contractor is properly required to make as an independent Contractor.
- 12. Administration of Agreement:** Contractor's compliance with this Agreement shall be supervised and administered by the TCTA through the office of the Executive Director. This Section shall not relieve Contractor of any obligation or liability undertaken by virtue of this Agreement.
- 13. Written Notification:** Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing and either served personally, by fax or sent prepaid, first class United States mail. Any such notice, demand, request, consent, approval or communication shall be addressed to the other party at the address set forth hereinbelow. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of depositing in the United States mail box if mailed as provided in this section.

If to TCTA:
Tuolumne County Transit Agency

If to Contractor:

Darin Grossi, Executive Director
2 South Green Street, Sonora, CA 95370
dgrossi@co.tuolumne.ca.us

14. Consents and Agreements: Any and all consents and agreements provided for or permitted by this Agreement shall be in writing, and a signed copy thereof shall be filed and kept with the books of this Agreement.

15. Signature Authority

15.01 The Executive Director or his designee shall have authority on behalf of the TCTA to sign Agreement amendments and other documents related to this Agreement.

15.02 Contractor certifies that the following person(s) have authority to sign Agreement amendments and other documents related to this Agreement on behalf of Contractor. Written certification of the signatory authority of the following persons shall be provided by the Contractor to the TCTC prior to execution of this Agreement.

Name

Title

16. Insurance Requirements: Contractor and/or any subcontractor shall provide a Certificate of Insurance as proof of a policy of insurance satisfactory to the TCTA evidencing that Contractor and/or subcontractor maintains insurance that meets the requirements included in Exhibit A, "Standard Insurance Requirements," of this Agreement.

17. Workers Compensation

18.01 Contractor shall comply with the provisions of the Worker's Compensation and Insurance Law of the State of California.

18.02 The TCTA shall not be responsible for providing Workers' Compensation insurance or any other protective insurance coverage for the Contractor that is based upon the relationship of employer and employee.

18. Compensation: The TCTA will be paid monthly according to the number of Ads sold by contractor. TCTA will be paid it's agreed upon percentage of the overall advertising sales coordinated by contractor.

19. Reporting Requirements: The Contractor will provide to the TCTA a monthly written progress report detailing status of the work schedule and outputs, the percentage of work completed by task and any other relevant factors to completion of all work in a timely manner. The Contractor will notify the TCTA of any potential or existing problem areas as soon as possible.

20. Maintenance of Records/Audit Rights: Contractor shall maintain books, records, documents and other evidence directly pertinent to work under this Agreement in accordance with generally accepted

accounting principles and practices. Contractor shall also maintain for a period of at least three (3) years from the expiration date of this Agreement the financial information and data used by Contractor to determine charges and costs related to work performed under this Agreement. The TCTA, and any Federal or State authorized representatives, shall have the right to inspect and audit Contractor's accounting books, records and documents during normal business hours. Such records shall be turned over to the TCTA upon request.

- 21. Work Product Property of the TCTA:** All plans, specifications, reports, computer files and other work products prepared by Contractor pursuant to this Agreement shall become the property of the TCTA. The TCTA's use of documents produced under this Agreement and/or supporting information or calculations other than as intended hereunder shall be at the TCTA's sole risk.
- 22. Release of Documents and Information:** Services provided within the scope of this Agreement are for the exclusive use of the TCTA. The TCTA and Contractor agree that all data, plans, specifications, reports, computer files and other work products will not be released to third parties by Contractor without the prior written consent of the TCTA.
- 23. Covenant Against Contingent Fees:** The Contractor warrants that he/she has not employed or retained any company or person, other than a bona fide employee or subcontractor working for the Contractor, as provided for in the Contractor's Proposal (as accepted by TCTA), to solicit or secure this Agreement, and that he/she has not paid or agreed to pay any company or person other than a bona fide employee, a fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon, resulting from the award or making this Agreement. For breach or violation of this warranty, the TCTA shall have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.
- 24. Covenant Against Gratuities:** Contractor covenants that it has not offered or given gratuities in the form of entertainment, gifts or otherwise to any member, officer or employee of the TCTA with a view toward securing favorable treatment in the award, modification or performance evaluation of this Agreement. For breach or violation of this covenant, the TCTA shall have the right to cancel this Agreement without any liability to Contractor.
- 25. Restrictions on Lobbying:** Contractor shall not pay any person or organization to influence or attempt to influence an officer or employee of any federal, state or county agency in connection with awarding this Agreement or any other Federal award from which funding for this Project is originally derived, consistent with 31 U.S.C. section 1352.
- 26. Transfer of Agreement:** This Agreement is made in reliance by TCTA upon the qualifications and responsibility of Contractor. The performance by Contractor of this Agreement may not be assigned, sublet, transferred or in any way subcontracted, except upon the prior written approval of the TCTA.
- 27. Solicitations for Subcontracts, Including Procurement of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by Contractor for work to be performed under subcontract, including procurement of material or leases of equipment, each potential subcontract or

supplier shall be notified by Contractor of Contractor's obligations under this Agreement relative to civil rights requirements. Contractor shall provide the TCTA documentation of such notifications.

Contractor agrees to refrain from awarding any third party subcontract without prior written approval by TCTA. Payment for such services shall be the responsibility of the Contractor.

- 28. Third Party Obligations:** Contractor shall be solely liable to third parties with whom it enters into contracts to effectuate the purpose of this Agreement. Contractor shall pay directly such parties for all amounts due under said arrangement. Contractor shall indemnify, defend and hold the TCTA harmless from any and all claims and liabilities arising from any third party contracts. Contractor shall exert its best efforts to prevent any loss to the TCTA from the failure of proper performance of any third party.
- 29. Conflicts of Interest:** Contractor shall not enter into any Agreement, subcontract or arrangement in connection with the Project or any property included or planned to be included in the Project, in which any member, officer or employee of Contractor or the TCTA, during the Project term and for one year thereafter, has any direct or indirect interest. If any such present or former member, officer or employee involuntarily acquires or had acquired prior to the beginning of the Project term any such interest, and if such interest is immediately disclosed to Contractor and such disclosure is entered upon the minutes of Contractor's written report to the TCTA of such interest, Contractor, with the prior written approval of the TCTA, may waive the prohibition contained in this subsection; provided that any such present member, officer or employee shall not participate in any action by Contractor or the TCTA relating to such Agreement, subcontract or arrangement.
- 30. FTA-DOT Required Provisions:** The parties understand and acknowledge that a portion of the funding for the management and operation of Tuolumne County Transit is provided by the Federal Transit Administration ("FTA") through the California Department of Transportation ("DOT"). In exchange for these funds, specific provisions are required to be incorporated into this Agreement. These provisions are set forth in Exhibit B and incorporated herein.

The required provisions include, in part, certain Standard Terms and Conditions required by FTA and DOT, whether or not expressly set forth in Exhibit B. In addition, all contractual provisions required by DOT, as set forth in FTA Circular 4220.1F are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA and DOT mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any TCTA requests which would cause TCTA to be in violation of the FTA-DOT terms and conditions.

- 31. Debarment and Suspension Certification:** Contractor agrees to refrain from awarding any third-party agreement of any amount to or entering into any sub-agreement of any amount with a party included in the "U.S. General Services Administration's (U.S. GSA) List of Parties Excluded from Federal procurement or Non-procurement Program," implementing Executive Order Nos. 12549 and 12689, "Debarment and suspension" and 49 CFR Part 29. The list also include the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible for agreement award under statutory or regulatory authority other than Executive Order Nos. 12549 and 12689.

Contractor shall provide the TCTA debarment and suspension certification containing information about the debarment and suspension status and other specific information of Contractor and its “principals”, as defined in 49 CFR 29, prior to entering into any sub-agreement to this Agreement.

Contractor agrees to refrain from awarding any third party sub-contract of any amount (at any tier) to a debarred or suspended subcontractor, and to obtain similar certification from any third party subcontractor (at any tier) seeking a contract exceeding \$25,000.

33. Civil Rights Requirements

During the performance of this Agreement, the Contractor, for itself, its assignees and successors in interest (collectively, “Contractor”) agree as follows:

- A. Compliance with Regulations:** The Contractor shall comply with regulations relative to Title VI (nondiscrimination in Federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations Part 21 – Effectuation of Title VI of the 1964 Civil Rights Act) (“Title VI” or “Regulations”). Title VI provides that the recipients of Federal assistance will implement and maintain a policy of nondiscrimination in which no person in the State of California shall, on the basis of race, color, national origin, religion, sex, age or disability, be excluded from participation in, denied the benefits of or subjected to discrimination under any program or activity by the recipients of Federal assistance or their assignees and successors in interest.
- B. Nondiscrimination:** The Contractor, with regard to the work performed by it during the Agreement term shall act in accordance with Title VI. Specifically, the Contractor shall not discriminate on the basis of race, color, national origin, religion, sex, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT’s regulations, including employment practices when the Agreement covers a program whose goal is employment.
- C. Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor’s obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color or national origin. Contractor shall provide the TCTA documentation of such notifications.
- D. Information and Reports:** The Contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined the TCTA, State or Federal Transit Administration (FTA) to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the TCTA, State or FTA, as appropriate, and shall set forth what efforts it has made to obtain the information.

E. Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Agreement, the TCTA and/or State shall impose such Agreement sanctions as they or the FTA may determine to be appropriate, including, but not limited to:

- 1) Withholding of payments due to the Contractor under this Agreement until the Contractor complies, and/or
- 2) Cancellation, termination or suspension of this Agreement, in whole or in part.

F. Incorporation of Provisions: The Contractor shall include the provisions of these paragraphs (A) through (F) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Contractor will take such action with respect to any subcontractor or procurement as the TCTA, State or the FTA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the TCTA and/or State to enter into such litigation to protect the interest of the TCTA and/or State, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

34. Health, Safety, Fire and Environmental Protection

The Contractor and any subcontractor or agent shall comply with Federal, State and local requirements pertaining to safety, health, fire and environmental protection.

The Contractor shall comply with all applicable provisions of the California Occupational Safety and Health Act of 1973, including any amendments thereto, and the rules, standards, orders and regulations prescribed by the Occupational Safety and Health Standards Board and the Division of Industrial Safety in the California Department of Industrial Relations. Contractor shall further comply with all other applicable safety laws, ordinances and regulations.

In the event standards conflict, the standard providing the highest degree of protection and not in violation of any other applicable standard or law shall prevail.

35. Federal, State and Local Laws: Contractor warrants and covenants that it shall fully and completely comply with all applicable Federal, State and local laws and ordinances, and all lawful orders, rules and regulations issued by any authority with jurisdiction in all aspects of its performance of this Agreement.

36. Governing Law: The laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall also govern the interpretation of this Agreement.

37. Indemnification

To the extent permitted by law, Contractor does hereby assume liability for, and agrees to defend, indemnify, protect, save and keep harmless the TCTA and its elected and appointed officials, officers, employees, agents and volunteers and its successors and assigns (collectively, TCTA) from and against any and all liabilities, obligations, losses, damages, penalties, fines, claims, actions, suits, costs and expenses and disbursements (including legal fees and expenses) of any kind and nature imposed, asserted against, incurred or suffered by the TCTA by reason of damage, loss or injury (including death) of any kind or nature whatsoever to persons or property caused by or in any way relating to or arising out of:

- A. Any negligent or intentional act or action, or any neglect, omission or failure to act when under a duty to act on the part of Contractor or any of its officers, agents, servants, employees, subcontractors or subcontractors of any tier in its or their performance hereunder, except to the extent caused by the negligence or willful wrongful act of the TCTA; and,
- B. any claim of patent or copyright infringement or publication of defamatory material, including the TCTA's failure to request removal of such material in connection with the services performed and/or work products provided under this Agreement by Contractor or any of its officers, agents, servants, employees, subcontractors or subcontractors of any tier.

The parties shall establish procedures to notify the other party where appropriate of any claims, administrative actions or legal actions with respect to any of the matters described in this indemnification provision. The parties shall cooperate in the defense of such actions brought by others with respect to the matters covered in this indemnity. Nothing set forth in this Agreement shall establish a standard of care for, or create any legal rights in, any person not a party to this Agreement.

38. Sanctions for Noncompliance

In the event of the Contractor's noncompliance with the provisions of this Agreement, the TCTA shall impose such Agreement sanctions as it may determine to be appropriate, including, but not limited to:

- A. Withholding of payments due to the Contractor under this Agreement until the Contractor complies to the TCTA's satisfaction, and/or
- B. Cancellation, termination or suspension of this Agreement, in whole or in part.

39. Termination of Agreement

39.01 Acts Constituting Termination: This Agreement shall commence on the date of its execution and shall continue until:

- A. Expiration of the term of this Agreement as provided in Section 4;

- B. Voluntary or involuntary transfer or assignment by either party hereto without the consent of the other party of any of the rights, titles or obligations set forth in this Agreement;
- C. Mutual agreement of the parties hereto to terminate this Agreement;
- D. Any default or breach of this Agreement by either party hereto which has not been cured within thirty (30) days after notice of such default by the other party, or such later time as is reasonably necessary if the default cannot be reasonably cured within such thirty (30) day period;
- E. Written notice is delivered by either party to the other party ninety (90) days prior to the effective date of termination.
- F. The TCTA may terminate this Agreement for convenience upon ten (10) days' written notice to Contractor.

39.02 Contractor shall be paid for all work performed through the date of termination at the rates set forth in the Rate Schedule in Exhibit B, and subject to the proportion of work completed and approved by the Executive Director. In the event TCTA terminates this Agreement with open Work Orders, Contractor shall use its best efforts to cancel any approved third party vendor agreements. In the event of TCTA termination of this Agreement with open Work Orders, Contractor shall be reimbursed for any approved third party vendor agreements that cannot be canceled.

Upon termination of this Agreement, all affairs undertaken or conducted pursuant to this Agreement shall be wound up and debts paid.

40. Breach

If Contractor materially breaches the terms of this Agreement, the TCTA shall have the following remedies:

- A. Immediately terminate the Agreement with Contractor;
- B. Complete the unfinished work under this Agreement with a different Contractor;
- C. Charge Contractor with the difference between the cost of completion of the unfinished work pursuant to this Agreement and the amount that would otherwise be due Contractor, had Contractor completed the work; and/or
- D. Allow the Contractor five (5) business days to diligently complete the correction.

41. Waiver: A waiver by the TCTA of a breach or failure to perform hereunder shall not constitute a waiver of any subsequent breach or failure. No failure on the part of the TCTA to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.

- 42. Disputes:** Any controversy or claim arising out of, or relating to, the provisions of this Agreement, or the breach thereof, shall be settled by arbitration at the election of either party in accordance with the rules of the American Arbitration Association at Sonoma, California and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. The prevailing party shall be entitled to its reasonable attorneys' fees in any legal action to enforce the terms of this Agreement.
- 43. Amendments:** This Agreement may be amended or modified in any way by an instrument in writing, stating the amendment or modifications, signed by the parties hereto.
- 44. Survivorship:** Any responsibility of Contractor for warranties, insurance or indemnity with respect to this Agreement shall not be invalidated due to the expiration, termination or cancellation of this Agreement.
- 45. Severability:** If any term, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, the remainder of this Agreement shall remain in effect.
- 46. Successors and Assigns:** This Agreement is binding upon the TCTA and the Contractor and their successors. Except as otherwise provided herein, neither the TCTA nor the Contractor shall assign, sublet or transfer its respective interest in this Agreement or any part thereof without the prior written consent of the other.
- 47. Succession:** This Agreement shall be binding on and inure to the benefit of heirs, executors, administrators and assigns of the parties hereto.
- 48. Third Party Beneficiary:** Nothing in this Agreement is intended to, nor shall anything in this Agreement be construed to, benefit any third party.
- 49. Ambiguities:** The parties have each carefully reviewed this Agreement and have agreed to each term of this Agreement. Both parties have had the opportunity to engage counsel and negotiated the term of the Agreement. No ambiguity shall be presumed to be construed against either party.
- 50. Integration:** The Agreement Documents embody the entire agreement of the parties in relation to the scope of services herein described, and no other understanding whether verbal, written or otherwise exists between the parties.
- 51. Relationship Between the Parties:** Nothing in these Agreement Documents is intended to create, and nothing herein shall be considered as creating, any partnership, joint venture or agency relationship between the TCTA and Contractor.
- 52. Modification:** No waiver, alteration, modification or termination of this Agreement shall be valid unless made in writing and signed by the authorized parties hereof.

- 53. Headings and Subtitles:** Headings and subtitles to the Sections of this Agreement have been used for convenience only and do not constitute matter to be considered as interpreting this Agreement.
- 54. Sole and Only Agreement:** This instrument contains the sole and only agreement of the parties and correctly sets forth the rights, duties and obligations of each party to the other as of this date. Any prior agreements, policies, negotiations and/or representations are expressly set forth in this Agreement.
- 55. Acceptance of Agreement:** The undersigned, having read the foregoing, accept and agree to the terms set forth therein. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the administrators for the parties hereto and no oral understanding or agreement not incorporated herein shall be binding on any of the parties thereto.

DRAFT

Tuolumne County Transit Agency
Advertising Sales Program Management

In witness hereof, the parties have caused their authorized representatives to execute this Agreement as of the date first written above.

For the Contractor:

Legal Name of Firm

Signature

Street Address

Name (typed)

City, State, Zip Code

Title

For the TCTA:

Tuolumne County Transit Agency

TCTA Executive Director

**Approved as to Legal Form
TCTA Legal Counsel**

Approval Recommended:

By: _____

Date: _____

Exhibit A

Standard Insurance Requirements

Contractor at its own expense, shall procure, and maintain for the duration of the Agreement, the following insurance policies and endorsements with insurers licensed in the State of California possessing a Best's rating of no less than A:VII:

- A. Workers' Compensation Coverage - Worker's Compensation Insurance and Employer's Liability Insurance for employees in accordance with the laws of the State of California (including requiring any authorized subcontractor to obtain such insurance for its employees).
- B. General Liability Coverage - Commercial general liability insurance with a minimum liability limit per occurrence of one million dollars (\$1,000,000) for bodily injury and one hundred thousand dollars (\$100,000) for property damage. If a commercial general liability insurance form or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Coverage shall be included for premises, operations and broad form contractual.
- C. Automobile Liability Coverage - Automobile liability insurance with a minimum liability limit per occurrence of one million dollars (\$1,000,000) for bodily injury and one hundred thousand dollars (\$100,000) for property damage, and including coverage for owned, hired and non-owned vehicles..
- D. Policy Endorsements: Each general liability and automobile liability insurance policy shall be endorsed with the following specific provisions:
 - 1) The TCTA, its elected or appointed officers, officials, employees, agents and volunteers are to be covered as additional insureds ("TCTA additional insureds").
 - 2) This policy shall be considered, and include a provision it is, primary as respects the TCTA additional insureds, and shall not include any special limitations to coverage provided to the TCTA additional insureds. Any insurance maintained by the TCTA, including any self-insured retention the TCTA may have, shall be considered excess insurance only and shall not contribute with it.
 - 3) This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.

*Exhibit A
Standard Insurance Requirements (continued)*

- 4) The insurer waives all rights of subrogation against the TCTA additional insureds.
- 5) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the TCTA additional insureds.
- 6) The insurance policy and endorsements shall not be suspended, voided, canceled or reduced in coverage or in limits except after thirty (30) days' written notice has been given to the Executive Director by registered mail, return receipt requested, at 2 South Green Street, Sonora, CA, 95370.
- E. Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by the Executive Director. At the TCTA's option, Contractor shall demonstrate financial capability for payment of such deductibles or self-insured retentions.
- F. Evidence of Insurance: Contractor shall provide policies and certificates of insurance with original endorsements or other evidence of insurance coverage as required by the Executive Director. Required evidence of insurance shall be filed with the Executive Director on or before commencement of performance of this Agreement. Current evidence of insurance shall be kept on file with the Executive Director at all times during the term of this Agreement.
- G. Unsatisfactory Policies: If at any time any of the policies or endorsements be unsatisfactory as to form or substance, or if an issuing company shall be unsatisfactory, to the Executive Director, a new policy or endorsement shall be promptly obtained and evidence submitted to the Executive Director for approval.
- H. Failure to Comply: Upon failure to comply with any of these insurance requirements, this Agreement may be forthwith declared suspended or terminated. Failure to obtain and/or maintain any required insurance shall not relieve any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the indemnification obligations.