OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Agenda Item No. 8(F)(3)

Date: January 21, 2015

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Recommendation for Approval to Award: Advertising Services for Transit Vehicles, Metrorail Stations and the South Miami-Dade Busway

Resolution No. R-18-15

This item was amended at the December 10, 2014 Transportation and Aviation Committee meeting to reflect the recommended vendor's change of name from CBS Outdoor Group, LLC to Outfront Media Group, LLC. Additionally, a scrivener's error pertaining to the retroactive extension was corrected to properly reflect the end date of January 31, 2015.

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the following:

- Award of *Request for Proposals No. 00039* to Outfront Media Group, LLC (Outfront) to develop and manage a revenue-generating advertising program for Miami-Dade Transit. The advertising services will be provided on Metrobus, Metrorail, and Metromover vehicles, at Metrorail stations, and on the South Miami-Dade Busway. Outfront is responsible for securing sales, completing advertisement installations, keeping advertising spaces occupied at all times, and providing maintenance services. Outfront is also responsible for having a local full-time Account Representative authorized to coordinate and direct advertising and maintenance services provided by Outfront.
- Retroactive extension of contract TR03-ADV from September 9, 2014 through January 31, 2015 for the current advertising services contract with Outfront, which expired September 8, 2014. Retroactive approval is required due to the time period that was required to negotiate the higher revenues on the replacement contract and to allow for orderly transition to the proposed contract.

Advertising may take, but is not limted to, the following forms: (1) exterior taillight, full-back, and side advertising panels, as well as inside floor and ceiling wrap ads for Metrobus, Metrorail, and Metromover vehicles; (2) self-standing, back-lit advertising display devices, bench windscreens, and digital information/advertising units at Metrorail stations; and (3) self-standing, back-lit advertising devices along the dedicated road and outer panel signage on the busway square advertising devices along limited bus stops for the South Miami-Dade Busway. All advertising content and its manner of presentation are subject to the approval of the Miami-Dade Transit Director prior to installation.

Scope

The impact of this item is countywide in nature.

Fiscal Impact and Funding Source

The revenue to be generated by Miami-Dade Transit during the initial five-year term is 60 percent of all actual annual revenues, which is conservatively estimated below $19,056,000. However, the County will generate a minimum annual guarantee of $3,250,000 in the first year, which escalates by $100,000 each year to, total $17,250,000 at the end of the five-year term.

Year	Minimum Annual Guarantee	Total Projected Revenue*
1	$3,250,000	$3,811,078
2	3,350,000	3,811,078
3	3,450,000	3,811,078
4	3,550,000	3,811,078
5	3,650,000	3,811,078
Total	**$17,250,000**	**$19,055,388**

**This amount is based on 2013 actual Outfront advertising sales of $6,351,796 under TR03-ADV.*

If the County exercises the two (2) five-year options-to-renew, the total estimated generated revenue will be $57,168,000. The initial five-year term's revenue represents an estimated increase of over $3,078,000 from the current contract (TR03-ADV), which generated $15,978,000 in revenue during the last five-year term.

Track Record/Monitor
Jocelyn Fulton of the Internal Services Department is the Procurement Contracting Officer. The Contract Manager in Miami-Dade Transit is Rosemary Cortes.

Delegated Authority
If this item is approved, the County Mayor or County Mayor's designee will have the authority to exercise all provisions of the contract pursuant to Section 2-8.1 of the County Code and Implementing Order 3-38.

Vendor Recommended for Award
A Request for Proposals (RFP) was issued under full and open competition on March 24, 2014. Three (3) proposals were received in response to the solicitation. The Evaluation/Selection Committee recommended the highest-ranked proposer, Outfront, for award based on the criteria established in the RFP.

During the evaluation process, the Evaluation/Selection Committee determined that Commuter Advertising, Inc.'s proposal did not address all the technical requirements of the solicitation and was not viable for award consideration. Direct Media, Inc.'s proposal took exception to the $10 million Letter of Credit requirement. In response to the exception, the County Attorney's Office opined that the exception was not a matter of responsiveness, and that the Evaluation/Selection Committee should determine if the exception was acceptable. The Evaluation/Selection Committee concluded that the exception was not acceptable because of the potential financial exposure to the County.

Awardee	Address	Principal
Outfront Media Group, LLC	405 Lexington Avenue, New York, NY	Raymond Nowak

Vendors Not Recommended for Award

Proposers	Reason for Not Recommending
Direct Media, Inc.	Evaluation Scores/Ranking
Commuter Advertising, Inc.	

Due Diligence
Pursuant to Resolution R-187-12, due diligence was conducted in accordance with the Internal Services Department's Procurement Guidelines to determine Contractor responsibility, including verifying corporate status and that there are no performance or compliance issues. The lists that were referenced include: convicted vendors, debarred vendors, delinquent contractors, suspended vendors and federal excluded parties. There were no adverse findings related to Contractor responsibility.

Applicable Ordinances and Contract Measures

- The two (2) percent User Access Program provision does not apply as this is a revenue-generating contract.
- No Small Business Enterprise measure was assigned to this solicitation as it is a revenue-generating contract.
- The Local Preference Ordinance was applied but did not impact the outcome.
- The Living Wage Ordinance does not apply.

Alina T. Hudak
Deputy Mayor

Memorandum

MIAMI-DADE COUNTY

Date: July 28, 2014

To: Lester Sola
Director
Internal Services Department

Thru: Miriam Singer, CPPO
Assistant Director
Internal Services Department

From: Allan M Garcia
Procurement Contracting Associate
Chairperson, Evaluation/Selection Committee

Subject: Report of Evaluation/Selection Committee for RFP No. 00039 Advertising Services for Transit Vehicles, Metrorail Stations and the South Miami-Dade Busway

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The County issued a solicitation to obtain proposals from qualified firms that will develop and manage a revenue advertising program for Transit Vehicles (Buses, Metrorail, and Metromover), South Miami-Dade Busway, and Metrorail Stations.

The Evaluation/Selection Committee (Committee) has completed the evaluation of proposals submitted in response to the solicitation following the guidelines published in the solicitation.

Committee meeting dates:

- May 21, 2014
- June 11, 2014
- June 25, 2014

Verification of compliance with contract measures:
Not applicable since no contract measures were assigned to this solicitation.

Verification of compliance with minimum qualification requirements:
The solicitation did not have minimum qualification requirements.

Local Certified Service-Disabled Veteran's Business Enterprise Preference:
Veteran's Preference was considered in accordance with the applicable ordinance. None of the proposers qualified for the preference.

Summary of scores:
The Committee decided not to hold oral presentations. Price proposals were reviewed for those proposers remaining in consideration after review and scoring of technical proposals.

The final scores are as follows:

Proposer	*Technical Score* *(max.500)*	*Price Score* *(max.500)*	*Total Combined Score* *(max.1,000)*
1. CBS Outdoor Group, LLC	500	420	920
2. Direct Media Inc.	337	500	837
3. Commuter Advertising, Inc.	0	0	0

Local Preference:
Local Preference was considered in accordance with applicable ordinance, but did not affect the outcome as the highest ranked proposal is local.

Other information: The Commuter Advertising, Inc.'s proposal was only for audio and text advertising, and did not address other requirements such as developing and managing a revenue advertising program. CBS Outdoor Group, LLC (CBS) raised the concern that Direct Media's proposal took exception to the Letter of Credit requirement in the proposal; the County Attorney opined that it was not a matter of responsiveness and that the Committee could determine if the exception taken was acceptable to the County. The Committee determined that the exception was not acceptable due to the potential financial exposure to the County and that Direct Media would have to comply with the Letter of Credit requirement as stated in the solicitation.

Negotiations:
The Committee recommends that the County enter into negotiations with the highest ranked proposer, CBS. The following individuals will participate in the negotiations:

Fred Simmons, Jr., Procurement Contracting Officer, ISD
Rosemary Cortes, Advertising & Media Relations, MDT
Vivian Delgado, Assistant Controller, MDT
Chris Mangos, Director of Marketing Division, MDAD
Marc T. Henderson, Media and Public Relations Officer, MDAD
Andria Muniz-Amador, Public Affairs Officer, Seaport

Consensus Statement: The Committee recommended CBS for the following reasons

1) CBS's proposal better met the requirements of the County;
2) CBS's technical approach and experience was superior to that of the other proposers;
3) The overall score for CBS was highest.

Copies of the score sheets are attached for each Committee member, as well as a composite score sheet.

Approved

Lester Sola
Director

7/30/14
Date

EVALUATION OF PROPOSALS
RFP NO. 00039
ADVERTISING SERVICES FOR TRANSIT VEHICLES, METRORAIL STATIONS AND THE SOUTH MIAMI-DADE BUSWAY
Composite

SELECTION PROPOSERS CRITERIA	Maximum Points	Maximum Total Points (5 members)	CBS Outdoor	Direct Media Inc.	Commuter Advertising
Proposer's relevant experience, qualifications, and past performance. Relevant experience and qualifications of key personnel, including key personnel of subcontractors (if applicable), that will be assigned to this project, and experience and qualifications of subcontractors, and marketing and sales approach	65	325	325	247	0
Proposer's financial strength, stability	35	175	175	90	0
TECHNICAL POINTS *(total of technical rows above)*	100	500	500	337	0
PRICE CRITERIA					
Minimum Guarantee Revenue	65	325	260	325	0
Percentage of Net Revenues	35	175	160	175	0
TECHNICAL & PRICE POINTS *(total technical & price rows above)*	200	1000	920	837	0

SIGNATURE
Chaiperson

7-21-14
DATE

Reviewed By

9/21/14
DATE

EVALUATION OF PROPOSALS
RFP NO. 00039
ADVERTISING SERVICES FOR TRANSIT VEHICLES, METRORAIL STATIONS AND THE SOUTH MIAMI-DADE BUSWAY
Rosemary Cortes (MDT)

SELECTION PROPOSERS CRITERIA	Maximum Points	CBS Outdoor	Direct Media Inc.	Commuter Advertising
Proposer's relevant experience, qualifications, and past performance. Relevant experience and qualifications of key personnel, including key personnel of subcontractors (if applicable), that will be assigned to this project, and experience and qualifications of subcontractors, and marketing and sales approach	65	65	52	0
Proposer's financial strength, stability	35	35	20	0
TECHNICAL POINTS *(total of technical rows above)*	100	100	72	0
PRICE CRITERIA				
Minimum Guarantee Revenue	65	62	65	
Percentage of Net Revenues	35	32	35	0
TECHNICAL & PRICE POINTS *(total technical & price rows above)*	200	194	172	0

SIGNATURE RCort

DATE 6-25-14

EVALUATION OF PROPOSALS
RFP NO. 00039
ADVERTISING SERVICES FOR TRANSIT VEHICLES, METRORAIL STATIONS AND THE SOUTH MIAMI-DADE BUSWAY
Vivian Delgado (MDT)

SELECTION PROPOSERS CRITERIA	Maximum Points	CBS Outdoor	Direct Media Inc.	Commuter Advertising
Proposer's relevant experience, qualifications, and past performance. Relevant experience and qualifications of key personnel, including key personnel of subcontractors (if applicable),that will be assigned to this project, and experience and qualifications of subcontractors, and marketing and sales approach	65	65	50	0
Proposer's financial strength, stability	35	35	20	0
TECHNICAL POINTS *(total of technical rows above)*	100	100 0	70 0	0
PRICE CRITERIA				
Minimum Guarantee Revenue	65	62	65	0
Percentage of Net Revenues	35	32	35	0
TECHNICAL & PRICE POINTS *(total technical & price rows above)*	200	0	170 0	0

SIGNATURE

DATE 6/25/14

EVALUATION OF PROPOSALS
RFP NO. 00039
ADVERTISING SERVICES FOR TRANSIT VEHICLES, METRORAIL STATIONS AND THE SOUTH MIAMI-DADE BUSWAY
Chris Mangos (MDAD)

SELECTION PROPOSERS CRITERIA	Maximum Points	CBS Outdoor	Direct Media Inc.	Commuter Advertising
Proposer's relevant experience, qualifications, and past performance. Relevant experience and qualifications of key personnel, including key personnel of subcontractors (if applicable),that will be assigned to this project, and experience and qualifications of subcontractors, and marketing and sales approach	65	65	50	-0-
Proposer's financial strength, stability	35	35	20	-0-
TECHNICAL POINTS *(total of technical rows above)*	100	100 0	70 0	0
PRICE CRITERIA				
Minimum Guarantee Revenue	65	52	65	-0-
Percentage of Net Revenues	35	32	35	-0-
TECHNICAL & PRICE POINTS *(total technical & price rows above)*	200	184 0	170 0	0

Chris Mangos
SIGNATURE

6-25-14
DATE

8

EVALUATION OF PROPOSALS
RFP NO. 00039
ADVERTISING SERVICES FOR TRANSIT VEHICLES, METRORAIL STATIONS AND THE SOUTH MIAMI-DADE BUSWAY
Marc T. Henderson (MDAD)

SELECTION PROPOSERS CRITERIA	Maximum Points	CBS Outdoor	Direct Media Inc.	Commuter Advertising
Proposer's relevant experience, qualifications, and past performance. Relevant experience and qualifications of key personnel, including key personnel of subcontractors (if applicable),that will be assigned to this project, and experience and qualifications of subcontractors, and marketing and sales approach	65	65	42 35	0
Proposer's financial strength, stability	35	35	15	0
TECHNICAL POINTS *(total of technical rows above)*	100	0	0	0
PRICE CRITERIA				
Minimum Guarantee Revenue	65	52	65	0
Percentage of Net Revenues	35	32	35	0
TECHNICAL & PRICE POINTS *(total technical & price rows above)*	200	0	0	0

Marc T. Henderson
SIGNATURE

6/25/14
DATE

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EVALUATION OF PROPOSALS
RFP NO. 00039
ADVERTISING SERVICES FOR TRANSIT VEHICLES, METRORAIL STATIONS AND THE SOUTH MIAMI-DADE BUSWAY
Andria Muniz-Amador (Port Miami)

SELECTION PROPOSERS CRITERIA	Maximum Points	CBS Outdoor	Direct Media Inc.	Commuter Advertising
Proposer's relevant experience, qualifications, and past performance. Relevant experience and qualifications of key personnel, including key personnel of subcontractors (if applicable),that will be assigned to this project, and experience and qualifications of subcontractors, and marketing and sales approach	65	65	55	0
Proposer's financial strength, stability	35	35	15	0
TECHNICAL POINTS *(total of technical rows above)*	100	0 100	0 70	0
PRICE CRITERIA				
Minimum Guarantee Revenue	65	52	65	0
Percentage of Net Revenues	35	32	35	0
TECHNICAL & PRICE POINTS *(total technical & price rows above)*	200	0 84	0 160	0
		184		

SIGNATURE

DATE June 25, 2014

10

EVALUATION OF PROPOSALS
RFP NO. 00039
ADVERTISING SERVICES FOR TRANSIT VEHICLES, METRORAIL STATIONS AND THE SOUTH MIAMI-DADE BUSWAY
Rosemary Cortes (MDT)

SELECTION PROPOSERS CRITERIA	Maximum Points	CBS Outdoor	Direct Media Inc.	Commuter Advertising
Proposer's relevant experience, qualifications, and past performance. Relevant experience and qualifications of key personnel, including key personnel of subcontractors (if applicable),that will be assigned to this project, and experience and qualifications of subcontractors, and marketing and sales approach	65	65	52	0
Proposer's financial strength, stability	35	35	20	0
TECHNICAL POINTS *(total of technical rows above)*	100	100	72	0
PRICE CRITERIA				
Minimum Guarantee Revenue	65	52	65	0
Percentage of Net Revenues	35	32	35	0
TECHNICAL & PRICE POINTS *(total technical & price rows above)*	200	184	172	0

SIGNATURE

DATE 6-25-14

EVALUATION OF PROPOSALS
RFP NO. 00039
ADVERTISING SERVICES FOR TRANSIT VEHICLES, METRORAIL STATIONS AND THE SOUTH MIAMI-DADE BUSWAY
Vivian Delgado (MDT)

SELECTION PROPOSERS CRITERIA	Maximum Points	CBS Outdoor	Direct Media Inc.	Commuter Advertising
Proposer's relevant experience, qualifications, and past performance. Relevant experience and qualifications of key personnel, including key personnel of subcontractors (if applicable),that will be assigned to this project, and experience and qualifications of subcontractors, and marketing and sales approach	65	65	50	0
Proposer's financial strength, stability	35	35	20	0
TECHNICAL POINTS *(total of technical rows above)*	100	100	70	0
PRICE CRITERIA				
Minimum Guarantee Revenue	65	52	65	0
Percentage of Net Revenues	35	32	35	0
TECHNICAL & PRICE POINTS *(total technical & price rows above)*	200	184	170	0

SIGNATURE

DATE 6/25/14

EVALUATION OF PROPOSALS
RFP NO. 00039
ADVERTISING SERVICES FOR TRANSIT VEHICLES, METRORAIL STATIONS AND THE SOUTH MIAMI-DADE BUSWAY
Chris Mangos (MDAD)

SELECTION PROPOSERS CRITERIA	Maximum Points	CBS Outdoor	Direct Media Inc.	Commuter Advertising
Proposer's relevant experience, qualifications, and past performance. Relevant experience and qualifications of key personnel, including key personnel of subcontractors (if applicable),that will be assigned to this project, and experience and qualifications of subcontractors, and marketing and sales approach	65	65	50	0
Proposer's financial strength, stability	35	35	20	0
TECHNICAL POINTS *(total of technical rows above)*	100	100	70	0
PRICE CRITERIA				
Minimum Guarantee Revenue	65	52	65	0
Percentage of Net Revenues	35	32	35	0
TECHNICAL & PRICE POINTS *(total technical & price rows above)*	200	184	170	0

SIGNATURE

DATE 6-25-14

EVALUATION OF PROPOSALS
RFP NO. 00039
ADVERTISING SERVICES FOR TRANSIT VEHICLES, METRORAIL STATIONS AND THE SOUTH MIAMI-DADE BUSWAY
Marc T. Henderson (MDAD)

SELECTION PROPOSERS CRITERIA	Maximum Points	CBS Outdoor	Direct Media Inc.	Commuter Advertising
Proposer's relevant experience, qualifications, and past performance. Relevant experience and qualifications of key personnel, including key personnel of subcontractors (if applicable),that will be assigned to this project, and experience and qualifications of subcontractors, and marketing and sales approach	65	65	40	0
Proposer's financial strength, stability	35	35	15	0
TECHNICAL POINTS *(total of technical rows above)*	100	100	55	0
PRICE CRITERIA				
Minimum Guarantee Revenue	65	52	65	0
Percentage of Net Revenues	35	32	35	0
TECHNICAL & PRICE POINTS *(total technical & price rows above)*	200	184	155	0

Marc T. Henderson
SIGNATURE

DATE 6/25/14

EVALUATION OF PROPOSALS
RFP NO. 00039
ADVERTISING SERVICES FOR TRANSIT VEHICLES, METRORAIL STATIONS AND THE SOUTH MIAMI-DADE BUSWAY
Andria Muniz-Amador (Port Miami)

SELECTION PROPOSERS CRITERIA	Maximum Points	CBS Outdoor	Direct Media Inc.	Commuter Advertising
Proposer's relevant experience, qualifications, and past performance. Relevant experience and qualifications of key personnel, including key personnel of subcontractors (if applicable),that will be assigned to this project, and experience and qualifications of subcontractors, and marketing and sales approach	65	65	55	0
Proposer's financial strength, stability	35	35	15	0
TECHNICAL POINTS *(total of technical rows above)*	100	100	70	0
PRICE CRITERIA				
Minimum Guarantee Revenue	65	52	65	0
Percentage of Net Revenues	35	32	35	0
TECHNICAL & PRICE POINTS *(total technical & price rows above)*	200	184	170	0

15

SIGNATURE

DATE June 25, 2014

Memorandum

MIAMI-DADE COUNTY

Date: May 8, 2014

To: Those Listed Below

From: Carlos A. Gimenez
Mayor

Subject: Appointment of Selection Committee for Miami-Dade Transit Department Request for Proposals for Advertising Services for Transit Vehicles, Metrorail Stations and the South Miami-Dade Busway – RFP No. 00039

In accordance with Implementing Order 3-34, I am hereby appointing those listed below as the Selection Committee for Miami-Dade Transit Department Request for Proposals for Advertising Services for Transit Vehicles, Metrorail Stations and the South Miami-Dade Busway – RFP No. 00039.

Selection Committee
Allan Garcia, ISD (Non-Voting Chairperson)
Rosemary Cortes, MDT
Vivian Delgado, MDT
Chris Mangos, MDAD
Marc T. Henderson, MDAD
Gabriela De Jesus, CIAO
Andria Muniz-Amador, PortMiami (Alternate)

You are directed to assist me in the selection process considering the factors delineated in the solicitation. If you are unable to participate in the selection process, contact this office through Small Business Development (SBD) by memorandum from your department director documenting the reason why you cannot participate. Only in cases of **dire** urgency may you be excused from participation.

Each Selection Committee member shall be responsible for evaluating, rating and ranking the proposals based on the criteria and procedure contained in the solicitation. The Selection Committee will meet to review the written proposals. If required, the Selection Committee will select firms to make oral presentations to the Selection Committee at a properly noticed public hearing. If proposers are invited to make oral presentations, the Selection Committee may re-rate and re-rank the proposals based upon the written documents combined with the oral presentation. You may utilize staff of the issuing department and the using agency to conduct a preliminary review of the proposals for responsiveness. All requests for responsiveness determinations shall be made in writing by the issuing department to the County Attorney's Office.

The alternate committee member will serve only in the event of an approved substitution. No substitution of committee members shall be allowed after the first official meeting of the committee. The Internal Services Department (ISD) may substitute the chairperson to ensure the appropriate level of staffing expertise as deemed necessary to accommodate the needs of this solicitation.

Upon completion of the evaluation process, the Selection Committee Chairperson shall prepare and submit a memorandum to include a narrative of the evaluation and justification of the recommended firm(s) and attach supporting documentation which MUST include the following information:

Name of firm(s)
Quality Rating Score
Price
Adjusted Score (if applicable)
Committee's Overall Ranking

This report should be submitted to me through ISD for review and consideration.

As a matter of administrative policy and to maintain a fair and impartial process, all individuals appointed to the Selection Committee (including the Chairperson) and staff are instructed to refrain from discussing the solicitation with prospective lobbyists and/or consultants. Selection Committee members are reminded that in accordance with the Cone of Silence Ordinance 98-106, there are restrictions on communications regarding the solicitation with potential proposers, service providers, lobbyists, consultants, or any member of the County's professional staff. Violation of this policy could lead to termination of County service.

All questions must be directed to the staff contact person designated by the issuing department.

c: Lester Sola, Director, ISD
Ysela Llort, Director, MDT
Emilio T. Gonzalez, Director, MDAD
Henry F. Sori, Director, CIAO
Juan Kuryla, Director, PortMiami
Gary T. Hartfield, SBD Division Director, ISD

Selection Committee
Allan Garcia, ISD (Non-Voting Chairperson)
Rosemary Cortes, MDT
Vivian Delgado, MDT
Chris Mangos, MDAD
Marc T. Henderson, MDAD
Gabriela De Jesus, CIAO
Andria Muniz-Amador, PortMiami (Alternate)

SELECTION COMMITTEE
TRANSIT DEPARTMENT
ADVERTISING SERVICES FOR TRANSIT VEHICLES, METRORAIL STATIONS AND THE SOUTH MIAMI-DADE BUSWAY
RFP NO. 00039

Committee Member/ Title	Department	Start Year With County	Ethnicity/ Gender	Education	Professional License(s)/ Certification(s)	Telephone #
Allan Garcia (Non-Voting Chairperson)	---	---	---	---	---	305-375-5650
Rosemary Cortes Administrative Officer 3	MDT	1990	Hispanic Female	Bachelor's in Public Administration	--	786-469-5381
Vivian Delgado MDT Assistant Controller	MDT	2013	Hispanic Female	Master of Business Administration ; Bachelor's in Finance	Florida Realtor (inactive)	786-469-5301
Chris Mangos Director of Marketing Division	MDAD	1988	White Male	Bachelor of Arts in Spanish and Liberal Arts	---	305-876-7862
Marc T. Henderson Media & Public Relations Officer	MDAD	1985	Black Male	Master of Science in Journalism	---	305-876-7907
Gabriela De Jesus Advertising Specialist	CIAO	2011	Hispanic Female	Bachelor of Science in Hospitality Management & Tourism	Certificate in Marketing & Advertisement	305-375-2751
Andria Muniz-Amador Public Affairs Officer (Alternate)	PortMiami	2004	Hispanic Female	Master of Science in Management	---	305-347-4962

MEMORANDUM
(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: January 21, 2015

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 8(F)(3)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Mayor's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(F)(3)
1-21-15

RESOLUTION NO. R-18-15

RESOLUTION APPROVING AWARD OF AN AGREEMENT WITH OUTFRONT MEDIA GROUP, LLC TO DEVELOP AND MANAGE A REVENUE-GENERATING ADVERTISING PROGRAM FOR MIAMI-DADE TRANSIT, PROVIDING FOR ESTIMATED TOTAL REVENUE OF $57,168,000.00 OVER INITIAL FIVE YEAR TERM AND TWO RENEWAL PERIODS; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND TO EXERCISE ANY CANCELLATION AND RENEWAL PROVISIONS, AND ALL OTHER RIGHTS CONTAINED IN CONTRACT NO. 00039; AND RETROACTIVELY APPROVING EXTENSION OF CONTRACT TR03-ADV FROM SEPTEMBER 9, 2014 THROUGH JANUARY 31, 2015

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves the award of an agreement with >>Outfront Media Group, LLC<<[1] [[~~CBS Outdoor Group, LLC~~]] to develop and manage a revenue-generating advertising program for Miami-Dade Transit providing for estimated total revenue of $57,168,000.00 over initial five year term and two renewal periods, in substantially the form attached hereto and made a part hereof, and authorizes the County Mayor or County Mayor's designee to

[1] Committee amendments are indicated as follows: words stricken through and/or [[double bracketed]] shall be deleted, words underscored and/or >>double arrowed<< constitute the amendment proposed.

execute same for and on behalf of Miami-Dade County and to exercise any cancellation and renewal provisions, and all other rights contained therein, and retroactively approves an extension of Contract TR03-ADV through >>January 31, 2015<< [[~~December 31, 2014~~]].

The foregoing resolution was offered by Commissioner **Esteban L. Bovo, Jr.**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

Jean Monestime, Chairman			**aye**
Esteban L. Bovo, Jr., Vice Chairman			**aye**
Bruno A. Barreiro	**aye**	Daniella Levine Cava	**aye**
Jose "Pepe" Diaz	**aye**	Audrey M. Edmonson	**absent**
Sally A. Heyman	**absent**	Barbara J. Jordan	**aye**
Dennis C. Moss	**aye**	Rebeca Sosa	**aye**
Sen. Javier D. Souto	**aye**	Xavier L. Suarez	**aye**
Juan C. Zapata	**aye**		

The Chairperson thereupon declared the resolution duly passed and adopted this 21st day of January, 2015. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Bruce Libhaber

Advertising Services for Transit Vehicles,
Metrorail Stations and the South Miami-Dade Busway

Contract No. 00039

THIS AGREEMENT made and entered into as of this _____ day of _____ by and between CBS Outdoor Group LLC, a corporation organized and existing under the laws of the State of Delaware, having its principal office at 405 Lexington Avenue, New York, NY 10174 (hereinafter referred to as the "Contractor"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 N.W. 1st Street, Miami, Florida 33128 (hereinafter referred to as the "County"),

WITNESSETH:

WHEREAS, the Contractor has offered to provide Advertising Services, on a non-exclusive basis, that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Proposals (RFP) No. 00039, and all associated addenda and attachments, incorporated herein by reference; and the requirements of this Agreement; and,

WHEREAS, the Contractor has submitted a written proposal dated April 23, 2014, hereinafter referred to as the "Contractor's Proposal" which is incorporated herein by reference; and,

WHEREAS, the County desires to procure from the Contractor such Advertising Services for the County, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

ARTICLE 1. DEFINITIONS

The following words and expressions used in this Agreement shall be construed as follows, except when it is clear from the context that another meaning is intended:

a) The words "Adjusted Agreed-Upon Inventory" to mean the device inventory resulting from adding or deleting devices included in the Initial Agreed-Upon Inventory under this Contract. The Contractor, without the advance written approval of the County, may not add or delete existing and/or new advertising devices.

b) The words "Advertising Devices" to mean specific advertising format listed in Exhibit 1, agreed upon Inventory.

c) The words "Contract" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), all other appendices and attachments hereto, all amendments issued hereto, RFP No. 00039, and all associated addenda, and the Contractor's Proposal.

d) The words "Contract Date" to mean the date on which this Agreement is effective.

f) The words "Contract Manager" to mean Miami-Dade County's Director, Internal Services Department, or the duly authorized representative designated to manage the Contract.

g) The word "Contractor" to mean CBS Outdoor Group LLC, (Federal Tax ID No. 13-2660769) and its permitted successors and assigns.

h) The word "Days" to mean Calendar Days including Saturday and Sunday

i) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the County's Project Manager for review or approval pursuant to the terms of this Agreement.

j) The words "directed", "required", "permitted", "ordered", "designated", "selected", "prescribed" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the County's Project Manager; and similarly the words "approved", acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the County's Project Manager.

k) The words "Extra Work" or "Additional Work" to mean additions or deletions or modifications to the amount, type or value of the Work and Services as required in this Contract, as directed and/or approved by the County.

l) The words "Initial Agreed-Upon Inventory" to mean all advertising devices listed under this Contract whether utilized or not utilized, whether sold or not sold, which have been approved as to type and location by the County. The devices listed in Exhibit 1, attached hereto and made a part hereof, shall be considered the Initial Agreed-Upon Inventory for the commencement of this Contract.

m) The words "Minimum Annual Guarantee" to mean the minimum annual payment amount guaranteed by the Contractor to the County for each contract year. With the commencement of each new contract year, the corresponding proposed Minimum

Annual Guarantee will become effective.

n) The words "Net Revenues" to mean all moneys paid or payable to the Contractor for sales made, and for services rendered at/or from advertising devices covered under this Contract, regardless of when or where, on a cash or credit basis. The term "Net Revenues" shall not include commissions paid to recognized advertising agencies (excluding Contractor and its agents), not to exceed 15% of the customer's billing; any taxes imposed by law which are separately stated to and paid by the customer and directly payable by Contractor to a taxing authority; any reasonable artwork production charges; and moneys received pursuant to Article 2.3 of Appendix A. Payments received by the Contractor in advance shall be reported as Net Revenues in the month moneys are earned, calculated on a straight-line basis.

o) The words "Project Manager" to mean the County Mayor or the duly authorized representative designated to manage the Project.

p) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the work to be performed by the Contractor.

q) The word "subcontractor" or "subconsultant" to mean any person, entity, firm or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor.

r) The words "Work", "Services" "Program", or "Project" to mean all matters and things required to be done by the Contractor in accordance with the provisions of this Contract.

ARTICLE 2. ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) Any Amendment, Change Order to these terms and conditions, 2) these terms and conditions, 3) the Scope of Services (Appendix A), 4) the Miami-Dade County's RFP No. 00039 and any associated addenda and attachments thereof, and 5) the Contractor's Proposal.

ARTICLE 3. RULES OF INTERPRETATION

a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.

b) Reference to any agreement or other instrument shall be deemed to include such agreement or other instrument as such agreement or other instrument may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.

c) The terms "hereof", "herein", "hereinafter", "hereby", "herewith", "hereto", and "hereunder" shall be deemed to refer to this Agreement.

d) The titles, headings, captions and arrangements used in these Terms and Conditions are for convenience only and shall not be deemed to limit, amplify or modify the terms of this Contract, nor affect the meaning thereof.

ARTICLE 4. NATURE OF THE AGREEMENT

a) This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered or amended only by a written amendment duly executed by both parties hereto or their authorized representatives.

b) The Contractor shall provide the services set forth in the Scope of Services, and render full and prompt cooperation with the County in all aspects of the Services performed hereunder.

c) The Contractor acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all Work and Services under this Contract. All things not expressly mentioned in this Agreement but necessary to carrying out its intent are required by this Agreement, and the Contractor shall perform the same as though they were specifically mentioned, described and delineated.

d) The Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the Work and Services that are necessary for the completion of this Contract. All Work and Services shall be accomplished at the direction of and to the satisfaction of the County's Project Manager.

e) The Contractor acknowledges that the County shall be responsible for making all policy decisions regarding the Scope of Services. The Contractor agrees to provide input on policy issues in the form of recommendations. The Contractor agrees to implement any and all changes in providing Services hereunder as a result of a policy change implemented by the County. The Contractor agrees to act in an expeditious and fiscally sound manner in providing the County with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

ARTICLE 5. CONTRACT TERM

The Contract shall become effective on date stated on page 1 of 26 of this agreement, and shall continue through the last day of the 60th month. The County, at its sole discretion, reserves the right to exercise the option to renew this Contract for a period for two (2) additional five-year periods. The County reserves the right to exercise its option to extend this Contract for up to one hundred-eighty (180) calendar days beyond the current Contract period and will notify the Contractor in writing of the extension. This Contract may be extended beyond the initial one hundred-eighty (180) calendar day extension period by mutual agreement between the County and the Contractor, upon approval by the Board of County Commissioners.

ARTICLE 6. NOTICE REQUIREMENTS

All notices required or permitted under this Agreement shall be in writing and shall be deemed

sufficiently served if delivered by Registered or Certified Mail, with return receipt requested; or delivered personally; or delivered via fax or e-mail (if provided below) and followed with delivery of hard copy; and in any case addressed as follows:

(1) To the County
To the Project Manager:
Miami-Dade County
Transit Department
Attention: Rosemary Cortez
Phone: 786-469-5381
Fax:
E-mail: Cortes, Rosemary (MDT) <RCortes@miamidade.gov>

and,
a) To the Contract Manager:
Miami-Dade County
Internal Services Department, Procurement Management Division
111 N.W. 1st Street, Suite 1375
Miami, FL 33128-1974
Attention: Assistant Director
Phone: (305) 375-5548
Fax: (305) 375-2316
E-mail: Singer, Miriam (ISD) <SINGER@miamidade.gov>

(2) To the Contractor

CBS Outdoor Group LLC
Attention: Richard Ament
Phone: 1-212-297-6530
Fax: 1-212-297-6555
E-mail: Richard.Ament@cbsoutdoor.com

Either party may at any time designate a different address and/or contact person by giving notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee.

ARTICLE 7. PAYMENT TO THE COUNTY

The Contractor warrants that it has reviewed the County's requirements and has asked such questions and conducted such other inquiries as the Contractor deemed necessary in order to determine the revenue share to the County. The revenue share payable to the County for all Work and Services performed under this Contract, including all costs associated with such Work and Services, shall be in accordance with the Revenue Schedule: Form B-1. Except for a change and/or modification to the Contract, which is approved and executed in writing by the County Mayor, and the Contractor, payment obligations of the Contract will be as defined in Form B-1.

All Services undertaken by the Contractor before County's approval of this Contract shall be at the Contractor's risk and expense.

With respect to travel costs and travel-related expenses, the Contractor agrees to adhere to Section 112.061 of the Florida Statutes as they pertain to out-of-pocket expenses, including employee lodging, transportation, per diem, and all miscellaneous cost and fees. The County shall not be liable for any such expenses that have not been approved in advance, in writing, by

the County.

ARTICLE 8. REVENUE SHARING
Revenue sharing shall be in accordance with the Revenue Schedule, FORM B-1.

ARTICLE 9. SALES TAX

INTENTIONALLY OMITTED

ARTICLE 10. METHOD AND TIMES OF PAYMENT
The Contractor shall pay the County on a monthly basis, on or before the 1st calendar day of each month, including any option or extension periods. Notwithstanding the first MAG payment shall be made no less than 3 business days after receipt of Notice to Proceed. To the extent Notice to Proceed is issued after the first day of the month, the MAG for that initial month shall be adjusted on a prorated basis. If the percentage fee due to the County on the monthly revenue exceeds the MAG payment, the Contractor shall pay the County the difference between the MAG and the percent of all Net Revenues in addition to the MAG by the 10th day of the calendar month following the month during which the Net Revenues were received or accrued via electronic payment (ACH/Wire). Payments received by the Contractor in advance shall be reported as Net Revenues in the month the money is earned, calculated on a straight-line basis.

In the event of over payment, the Contractor will be allowed to deduct such amount from the next payment due to the County. In the event of an under payment, the Contractor shall be required to increase the next scheduled payment by the amount of the underpayment, plus interest at 1 ½% percent of the original payment due. Payment adjustments will be reflected in monthly statements to balance the account.

The Contractor must make all monthly payments due to the County notwithstanding any claim including, but not limited to, device inventory and/or monthly payment adjustment claims. Failure by the Contractor to submit all monthly payments due to the County on time shall result in a waiver of claims and/or rights to any adjustments during the term of this Contract and any extensions thereof.

This provision does not, in any way, diminish the County's right provided herein to terminate the Contract. Notwithstanding any provisions herein, the Contractor understands and agrees that in the event the Contractor fails to pay the County any owed amount; such failure may be cause for the County to declare a default. Payment to the County shall be made via check, unless otherwise directed by the County.

ARTICLE 11. LATE PAYMENT CHARGE

(a) In the event that the Contractor fails to make any payments on time, by the due date, as required to be paid under the provisions of this Contract, ten calendar days after such due date, interest at the rate of 18% per annum shall accrue against all such delinquent payment(s) from the original due date, until the County actually receives payment. The right of the County to require payment of such interest and the obligation of the Contractor to pay same shall be in addition to and not in lieu of the County's rights to enforce other provisions herein, including termination of this Contract, or to pursue other remedies provided by law.
(b) Failure by the Contractor to submit on time all payments due to the County as described, result in a waiver of any claim and/or rights to any adjustments during the term of this Contract. Implementation of this provision shall not preclude the County from terminating this Contract for default in the payment of the monthly Minimum Annual Guarantee and/or the percentage of Net Revenues or from enforcing any other provisions contained herein.

ARTICLE 12. INDEMNIFICATION AND INSURANCE

Contractor shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Contractor or its employees, agents, servants, partners principals or subcontractors. Contractor shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

The Contractor shall furnish to the Internal Services Department, Procurement Management Division, 111 NW 1st Street Suite 1300, Miami, Florida 33128, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

A. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440.

B. Commercial General Liability Insurance on a comprehensive basis in an amount not less than $1,000,000 combined single limit per occurrence for bodily injury and property damage. Coverage must include Advertising Liability. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**

C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than $500,000 combined single limit per occurrence for bodily injury and property damage.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than "A-" as to management, and no less than "Class VII" as to financial strength by Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

OR

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida" issued by the State of Florida Office of Insurance Regulation.

CERTIFICATE HOLDER MUST READ:

MIAMI-DADE COUNTY
111 NW 1st STREET
SUITE 2340
MIAMI, FL 33128

Compliance with the foregoing requirements shall not relieve the Contractor of this liability and obligation under this section or under any other section in this Agreement.

Notice to Proceed is contingent upon the receipt of the insurance documents, as required, within five (5) business days. If the insurance certificate is received within the specified timeframe but not in the manner prescribed in this Agreement, the Contractor shall have an additional five (5) business days to submit a corrected certificate to the County. If the Contractor fails to submit the required insurance documents in the manner prescribed in this Agreement within ten (10) business days, the Contractor shall be in default of the contractual terms and conditions and award of the Contract may be rescinded, unless such timeframe for submission has been extended by the County.

The Contractor shall be responsible for ensuring that the insurance certificates required in conjunction with this Section remain in force for the duration of the contractual period of the Contract, including any and all option years or extension periods that may be granted by the County. If insurance certificates are scheduled to expire during the contractual period, the Contractor shall be responsible for submitting new or renewed insurance certificates to the County at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the County shall suspend the Contract until such time as the new or renewed certificates are received by the County in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the County may, at its sole discretion, terminate this contract.

ARTICLE 13. MANNER OF PERFORMANCE

a) The Contractor shall provide the Services described herein in a competent and professional manner satisfactory to the County in accordance with the terms and conditions of this Agreement. The County shall be entitled to a satisfactory performance of all Services described herein and to full and prompt cooperation by the Contractor in all aspects of the Services. At the request of the County, the Contractor shall promptly remove from the project any Contractor's employee, subcontractor, or any other person performing Services hereunder. The Contractor agrees that such removal of any of its employees does not require the termination or demotion of any employee by the Contractor.

b) The Contractor agrees to defend, hold harmless and indemnify the County and shall be liable and responsible for any and all claims, suits, actions, damages and costs (including attorney's fees and court costs) made against the County, occurring on account of, arising from or in connection with the removal and replacement of any Contractor's personnel performing services hereunder at the behest of the County. Removal and replacement of any Contractor's personnel as used in this Article shall not require the termination and or demotion of such Contractor's personnel.

c) The Contractor agrees that at all times it will employ, maintain and assign to the performance of the Services a sufficient number of competent and qualified professionals and other personnel to meet the requirements to which reference is hereinafter made. The Contractor agrees to adjust its personnel staffing levels or to replace any its personnel if so directed upon reasonable request from the County, should the County make a determination, in its sole discretion, that said personnel staffing is inappropriate or that any individual is not performing in a manner consistent with the requirements for such a position.

d) The Contractor warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character and licenses as necessary to perform the Services described herein, in a competent and professional manner.

e) The Contractor shall at all times cooperate with the County and coordinate its respective work efforts to most effectively and efficiently maintain the progress in performing the Services.

f) The Contractor shall comply with all provisions of all federal, state and local laws, statutes, ordinances, and regulations that are applicable to the performance of this Agreement.

ARTICLE 14. EMPLOYEES OF THE CONTRACTOR

All employees of the Contractor shall be considered to be, at all times, employees of the Contractor under its sole direction and not employees or agents of the County. The Contractor shall supply competent employees. Miami-Dade County may require the Contractor to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment on County property is not in the best interest of the County. Each employee shall have and wear proper identification.

ARTICLE 15. INDEPENDENT CONTRACTOR RELATIONSHIP

The Contractor is, and shall be, in the performance of all work services and activities under this Agreement, an independent contractor, and not an employee, agent or servant of the County. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Contractor's sole direction, supervision and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Contractor's relationship and the relationship of its employees to the County shall be that of an independent contractor and not as employees and agents of the County.

The Contractor does not have the power or authority to bind the County in any promise, agreement or representation other than specifically provided for in this Agreement.

ARTICLE 16. AUTHORITY OF THE COUNTY'S PROJECT MANAGER

a) The Contractor hereby acknowledges that the County's Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Contractor's Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.

b) The Contractor shall be bound by all determinations or orders and shall promptly comply with every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in

writing by the Project Manager as soon thereafter as is practicable.

c) The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Contractor and the Project Manager are unable to resolve their difference, the Contractor may initiate a dispute in accordance with the procedures set forth in this Article. Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.

d) In the event of such dispute, the parties to this Agreement authorize the Miami-Dade Transit Director or designee, who may not be the Project Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the Miami-Dade Transit Director's purview as set forth above shall be conclusive, final and binding on parties. Any such dispute shall be brought, if at all, before the Miami-Dade Transit Director within 10 days of the occurrence, event or act out of which the dispute arises.

e) The Miami-Dade Transit Director may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an independent and objective determination of whether Contractor's performance or any Deliverable meets the requirements of this Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the Miami-Dade Transit Director participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Contractor to the Miami-Dade Transit Director for a decision, together with all evidence and other pertinent information in regard to such questions, in order that a fair and impartial decision may be made. Whenever the Miami-Dade Transit Director is entitled to exercise discretion or judgment or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The Miami-Dade Transit Director, as appropriate, shall render a decision in writing and deliver a copy of the same to the Contractor. Except as such remedies may be limited or waived elsewhere in the Agreement, Contractor reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.

ARTICLE 17. MUTUAL OBLIGATIONS

a) This Agreement, including attachments and appendices to the Agreement, shall constitute the entire Agreement between the parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect to the subject matter hereto unless acknowledged in writing by the duly authorized representatives of both parties.

b) Nothing in this Agreement shall be construed for the benefit, intended or otherwise, of any third party that is not a parent or subsidiary of a party or otherwise related (by virtue of ownership control or statutory control) to a party.

c) In those situations where this Agreement imposes an indemnity obligation on the

Contractor, the County may, at its expense, elect to participate in the defense if the County should so choose. Furthermore, the County may at its own expense defend or settle any such claims if the Contractor fails to diligently defend such claims, and thereafter seek indemnity for costs from the Contractor.

ARTICLE 18. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

The Contractor shall maintain, and shall require that its subcontractors and suppliers maintain, complete and accurate records to substantiate compliance with the requirements set forth in the Scope of Services. The Contractor and its subcontractors and suppliers, shall retain such records, and all other documents relevant to the Services furnished under this Agreement for a period of three (3) years from the expiration date of this Agreement and any extension thereof.

ARTICLE 19. AUDITS

The County, or its duly authorized representatives or governmental agencies, shall until the expiration of three (3) years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and of its subcontractors and suppliers which apply to all matters of the County. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to this Agreement.

Pursuant to Section 2-481 of the Miami-Dade County Code, the Contractor will grant access to the Commission Auditor to all financial and performance related records, property, and equipment purchased in whole or in part with government funds. The Contractor agrees to maintain an accounting system that provides accounting records that are supported with adequate documentation, and adequate procedures for determining the allowability and allocability of costs.

ARTICLE 20. SUBSTITUTION OF PERSONNEL

INTENTIONALLY OMITTED

ARTICLE 21. CONSENT OF THE COUNTY REQUIRED FOR ASSIGNMENT

The Contractor shall not assign, transfer, convey or otherwise dispose of this Agreement, including its rights, title or interest in or to the same or any part thereof without the prior written consent of the County.

ARTICLE 22. SUBCONTRACTUAL RELATIONS

a) If the Contractor will cause any part of this Agreement to be performed by a Subcontractor, the provisions of this Contract will apply to such Subcontractor and its officers, agents and employees in all respects as if it and they were employees of the Contractor; and the Contractor will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts and negligence of the Subcontractor, its officers, agents, and employees, as if they were employees of the Contractor. The services performed by the Subcontractor will be subject to the provisions hereof as if performed directly by the Contractor.

b) The Contractor, before making any subcontract for any portion of the services, will state in writing to the County the name of the proposed Subcontractor, the portion of the Services which the Subcontractor is to do, the place of business of such Subcontractor, and such other information as the County may require. The County will have the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved by the County.

c) Before entering into any subcontract hereunder, the Contractor will inform the Subcontractor fully and completely of all provisions and requirements of this Agreement relating either directly or indirectly to the Services to be performed. Such Services performed by such Subcontractor will strictly comply with the requirements of this Contract.

ARTICLE 23. ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS

The Contractor understands and agrees that any assumptions, parameters, projections, estimates and explanations presented by the County were provided to the Contractor for evaluation purposes only. However, since these assumptions, parameters, projections, estimates and explanations represent predictions of future events the County makes no representations or guarantees; and the County shall not be responsible for the accuracy of the assumptions presented; and the County shall not be responsible for conclusions to be drawn therefrom; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Contractor. The Contractor accepts all risk associated with using this information.

ARTICLE 24. SEVERABILITY

If this Agreement contains any provision found to be unlawful, the same shall be deemed to be of no effect and shall be deemed stricken from this Agreement without affecting the binding force of this Agreement as it shall remain after omitting such provision.

ARTICLE 25. EVENT OF DEFAULT

a) An Event of Default shall mean a breach of this Agreement by the Contractor. Without limiting the generality of the foregoing, and in addition to those instances referred to herein as a breach, an Event of Default shall include the following:

i. the Contractor has not made MAG payments on a timely basis;

ii. the Contractor has not made Percentage Net Revenue payments;

iii. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;

iv. the Contractor has failed to obtain the approval of the County where required by this Agreement;

v. the Contractor has failed to provide or maintain a valid Letter of Credit in the

amount prescribed in the Contract;

vi. the Contractor has failed in the representation of any warranties stated herein.

vii. the Contractor has failed to obtain or maintain insurance as prescribed in section 12.

ARTICLE 26. NOTICE OF DEFAULT - OPPORTUNITY TO CURE

If an Event of Default occurs in the determination of the County, the County may so notify the Contractor ("Default Notice"), specifying the basis for such default, and advising the Contractor that such default must be cured immediately or this Agreement with the County may be terminated. Notwithstanding, the County may, in its sole discretion, allow the Contractor to rectify the default to the County's reasonable satisfaction within a ten (10) day period. The default notice shall specify the date the Contractor shall discontinue the Services upon the Termination Date.

ARTICLE 27. REMEDIES IN THE EVENT OF DEFAULT

If an Event of Default occurs, the Contractor shall be liable for all damages resulting from the default, including but not limited to:

a) lost revenues;

b) the difference between the cost associated with procuring Services hereunder and the amount actually expended by the County for re-procurement of Services, including procurement and administrative costs; and

c) such other direct damages.

The Contractor shall also remain liable for any liabilities and claims related to the Contractor's default. The County may also bring any suit or proceeding for specific performance or for an injunction.

ARTICLE 28. PATENT AND COPYRIGHT INDEMNIFICATION

a) The Contractor shall not infringe on any copyrights, trademarks, service marks, trade secrets, patent rights, other intellectual property rights or any other third party proprietary rights in the performance of the Work.

b) The Contractor warrants that all Deliverables furnished hereunder, including but not limited to: equipment, programs, documentation, software, analyses, applications, methods, ways, processes, and the like, do not infringe upon or violate any copyrights, trademarks, service marks, trade secrets, patent rights, other intellectual property rights or any other third party proprietary rights.

c) The Contractor shall be liable and responsible for any and all claims made against the County for infringement of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any programs, documentation, software, analyses, applications, methods, ways, processes, and the like, in the course of performance or completion of, or in any way connected with, the Work, or the County's continued use of the Deliverables furnished hereunder. Accordingly, the

Contractor at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the County and defend any action brought against the County with respect to any claim, demand, cause of action, debt, or liability.

d) In the event any Deliverable or anything provided to the County hereunder, or portion thereof is held to constitute an infringement and its use is or may be enjoined, the Contractor shall have the obligation to, at the County's option to (i) modify, or require that the applicable subcontractor or supplier modify, the alleged infringing item(s) at its own expense, without impairing in any respect the functionality or performance of the item(s), or (ii) procure for the County, at the Contractor's expense, the rights provided under this Agreement to use the item(s).

e) The Contractor shall be solely responsible for determining and informing the County whether a prospective supplier or subcontractor is a party to any litigation involving patent or copyright infringement, service mark, trademark, violation, or proprietary rights claims or is subject to any injunction which may prohibit it from providing any Deliverable hereunder. The Contractor shall enter into agreements with all suppliers and subcontractors at the Contractor's own risk. The County may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the County's judgment, use thereof would delay the Work or be unlawful.

ARTICLE 29. CONFIDENTIALITY

INTENTIONALLY OMITTED

ARTICLE 30. PROPRIETARY INFORMATION

As a political subdivision of the State of Florida, Miami-Dade County is subject to the stipulations of Florida's Public Records Law.

During the term of the contract, the Contractor will not use directly or indirectly for itself or for others, or publish or disclose to any third party, or remove from the County's property, any computer programs, data compilations, or other software which the County has developed, has used or is using, is holding for use, or which are otherwise in the possession of the County (hereinafter "Computer Software"). All third-party license agreements must also be honored by the contractors and their employees, except as authorized by the County and, if the Computer Software has been leased or purchased by the County, all hired party license agreements must also be honored by the contractors' employees with the approval of the lessor or Contractors thereof. This includes mainframe, minis, telecommunications, personal computers and any and all information technology software.

The Contractor will report to the County any information discovered or which is disclosed to the Contractor which may relate to the improper use, publication, disclosure or removal from the County's property of any information technology software and hardware and will take such steps as are within the Contractor's authority to prevent improper use, disclosure or removal.

ARTICLE 31. PROPRIETARY RIGHTS

a) The Contractor hereby acknowledges and agrees that the County retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the County to the Contractor hereunder or furnished by the Contractor to the County

and/or created by the Contractor for delivery to the County, even if unfinished or in process, as a result of the Services the Contractor performs in connection with this Agreement, including all copyright and other proprietary rights therein, which the Contractor as well as its employees, agents, subcontractors and suppliers may use only in connection with the performance of Services under this Agreement. The Contractor shall not, without the prior written consent of the County, use such documentation on any other project in which the Contractor or its employees, agents, subcontractors or suppliers are or may become engaged. Submission or distribution by the Contractor to meet official regulatory requirements or for other purposes in connection with the performance of Services under this Agreement shall not be construed as publication in derogation of the County's copyrights or other proprietary rights.

b) All rights, title and interest in and to certain inventions, ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor and its subcontractors specifically for the County, hereinafter referred to as "Developed Works" shall become the property of the County.

c) Accordingly, neither the Contractor nor its employees, agents, subcontractors or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced or distributed by or on behalf of the Contractor, or any employee, agent, subcontractor or supplier thereof, without the prior written consent of the County, except as required for the Contractor's performance hereunder.

ARTICLE 32. VENDOR REGISTRATION/CONFLICT OF INTEREST

a) Vendor Registration

The Contractor shall be a registered vendor with the County – Internal Services Department, Procurement Management Division, for the duration of this Agreement. In becoming a Registered Vendor with Miami-Dade County, the Contractor confirms its knowledge of and commitment to comply with the following:

1. ***Miami-Dade County Ownership Disclosure Affidavit***
   (Section 2-8.1 of the County Code)
2. ***Miami-Dade County Employment Disclosure Affidavit***
   (Section 2.8-1(d)(2) of the County Code)
3. ***Miami-Dade Employment Drug-free Workplace Certification***
   (Section 2-8.1.2(b) of the County Code)
4. ***Miami-Dade Disability and Nondiscrimination Affidavit***
   (Section 2-8.1.5 of the County Code)
5. ***Miami-Dade County Debarment Disclosure Affidavit***
   (Section 10.38 of the County Code)
6. ***Miami-Dade County Vendor Obligation to County Affidavit***
   (Section 2-8.1 of the County Code)
7. ***Miami-Dade County Code of Business Ethics Affidavit***
   (Section 2-8.1(i) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and Section 2-11.1(c) of the County Code)
8. ***Miami-Dade County Family Leave Affidavit***
   (Article V of Chapter 11 of the County Code)
9. ***Miami-Dade County Living Wage Affidavit***
   (Section 2-8.9 of the County Code)
10. ***Miami-Dade County Domestic Leave and Reporting Affidavit***
    (Article 8, Section 11A-60 11A-67 of the County Code)
11. ***Subcontracting Practices***
    (Ordinance 97-35)
12. ***Subcontractor /Supplier Listing***
    (Section 2-8.8 of the County Code)
13. ***Environmentally Acceptable Packaging***
    (Resolution R-738-92)
14. ***W-9 and 8109 Forms***
    (as required by the Internal Revenue Service)
15. ***FEIN Number or Social Security Number***
    In order to establish a file, the Contractor's Federal Employer Identification Number (FEIN) must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. This number becomes Contractor's "County Vendor Number". To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:

- Identification of individual account records
- To make payments to individual/Contractor for goods and services provided to Miami-Dade County
- Tax reporting purposes
- To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records

16. *Office of the Inspector General*
(Section 2-1076 of the County Code)

17. *Small Business Enterprises*
The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.2, 2-8.2.3 and 2-8.2.4 of the County Code and Title 49 of the Code of Federal Regulations.

18. *Antitrust Laws*
By acceptance of any contract, the Contractor agrees to comply with all antitrust laws of the United States and the State of Florida.

b) Conflict of Interest
Section 2-11.1(d) of Miami-Dade County Code requires that any County employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, competing or applying for a contract, must first request a conflict of interest opinion from the County's Ethics Commission prior to their or their immediate family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County. Any such contract or business engagement entered in violation of this subsection, as amended, shall be rendered voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593.

ARTICLE 33. INSPECTOR GENERAL REVIEWS

Independent Private Sector Inspector General Reviews

Pursuant to Miami-Dade County Administrative Order 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (hereinafter "IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Contractor shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Contractor's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision apply to the Contractor, its officers, agents, employees, subcontractors and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities and performance of the Contractor in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Contractor or any third party.

The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County and Public Health Trust contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General is empowered to retain the services of independent private sector inspectors general (IPSIG) to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Contractor, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud

and corruption.

Upon written notice to the Contractor from the Inspector General or IPSIG retained by the Inspector General, the Contractor shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Contractor's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

ARTICLE 34. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

Contractor agrees to comply, subject to applicable professional standards, with the provisions of any and all applicable Federal, State and the County orders, statutes, ordinances, rules and regulations which may pertain to the Services required under this Agreement, including, but not limited to:

a) Equal Employment Opportunity (EEO), in compliance with Executive Order 11246 as amended and applicable to this Contract.

b) Miami-Dade County Florida, Department of Small Business Development Participation Provisions, as applicable to this Contract.

c) Environmental Protection Agency (EPA), as applicable to this Contract.

d) Miami-Dade County Code, Chapter 11A, Article 3. All contractors and subcontractors performing work in connection with this Contract shall provide equal opportunity for employment without regard to race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, or veteran status. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in a conspicuous place available for employees and applicants for employment, such notices as may be required by the Dade County Fair Housing and Employment Commission, or other authority having jurisdiction over the work setting forth the provisions of the nondiscrimination law.

e) "Conflicts of Interest" Section 2-11 of the County Code, and Ordinance 01-199.

f) Miami-Dade County Code Section 10-38 "Debarment".

g) Miami-Dade County Ordinance 99-5, codified at 11A-60 et. seq. of Miami-Dade Code pertaining to complying with the County's Domestic Leave Ordinance.

h) Miami-Dade County Ordinance 99-152, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.

The Contractor shall hold all licenses and/or certifications, obtain and pay for all permits and/or

inspections, and comply with all laws, ordinances, regulations and building code requirements applicable to the work required herein. Damages, penalties, and/or fines imposed on the County or Contractor for failure to obtain and maintain required licenses, certifications, permits and/or inspections shall be borne by the Contractor. The Project Manager shall verify the certification(s), license(s), permit(s), etc. for the Contractor prior to authorizing work and as needed.

Notwithstanding any other provision of this Agreement, Contractor shall not be required pursuant to this Agreement to take any action or abstain from taking any action if such action or abstention would, in the good faith determination of the Contractor, constitute a violation of any law or regulation to which Contractor is subject, including but not limited to laws and regulations requiring that Contractor conduct its operations in a safe and sound manner.

ARTICLE 35. NONDISCRIMINATION

During the performance of this Contract, Contractor agrees to not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, or veteran status, and will take affirmative action to ensure that employees and applicants are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to: recruitment, employment, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on the job training.

By entering into this Contract, the Contractor attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If the Contractor or any owner, subsidiary or other firm affiliated with or related to the Contractor is found by the responsible enforcement agency or the County to be in violation of the Act or the Resolution, such violation shall render this Contract void. This Contract shall be void if the Contractor submits a false affidavit pursuant to this Resolution or the Contractor violates the Act or the Resolution during the term of this Contract, even if the Contractor was not in violation at the time it submitted its affidavit.

ARTICLE 36. CONFLICT OF INTEREST

The Contractor represents that:

a) No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the award of this Agreement.

b) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:

   i) is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the

revenues; or

ii) is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any subcontractor or supplier to the Contractor.

c) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.

d) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.

e) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the County's Project Manager. Contractor shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions Contractor receives from the Project Manager in regard to remedying the situation.

ARTICLE 37. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

Under no circumstances shall the Contractor without the express written consent of the County:

a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the County, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the County. Such approval may be withheld if for any reason the County believes that the publication of such information would be harmful to the public interest or is in any way undesirable; and

b) Communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the Services to be performed hereunder except upon prior written approval and instruction of the County; and

c) Except as may be required by law, the Contractor and its employees, agents, subcontractors and suppliers will not represent, directly or indirectly, that any product or service provided by the Contractor or such parties has been approved or endorsed by the County.

ARTICLE 38. BANKRUPTCY

The County reserves the right to terminate this contract, if, during the term of any contract the Contractor has with the County, the Contractor becomes involved as a debtor in a bankruptcy proceeding, or becomes involved in a reorganization, dissolution, or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of the Contractor under federal bankruptcy law or any state insolvency law.

ARTICLE 39. GOVERNING LAW

This Contract, including appendices, and all matters relating to this Contract (whether in contract, statute, tort (such as negligence), or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida. Venue shall be Miami-Dade County.

ARTICLE 40. COUNTY USER ACCESS PROGRAM (UAP)

INTENTIONALLY OMITTED

ARTICLE 41. CONTRACT LETTER OF CREDIT (LOC)

42.1 The Contractor shall furnish the following Letter of Credit (LOC) at its own expense:

Letter of Credit (LOC) – The Contractor shall, five business days after contract award and before the County issues the Notice to Proceed (NTP), provide to the County a LOC in the amount of $10,000,000.00. The LOC shall be accessible such that the County may, at its convenience, withdraw funds from the LOC in the event the Contractor fails to execute its performance and payment obligations in a timely manner. The LOC shall be refreshed within five days if drawdowns are made by the County, such that the amount of the LOC is continual at $10,000,000. The LOC shall remain in full force for the contract term, and any extension periods approved by the County. On the first anniversary of the effective date and each anniversary date thereafter contained in the Notice to Proceed, the Contractor may cause the amount of the LOC to decrease to reflect 100% of the outstanding contract requirements.

42.2 The LOC shall be in an acceptable form to the County, and shall be executed by a Financial Institute acceptable to the County, authorized to issue surety LOCs in the State of Florida.

42.3 Provisions of the LOC shall not limit, in any way, any liability of the Contractor to the County.

42.4 The LOC shall be drawn on a financial institution which is federally insured and authorized to do business and with offices in the State of Florida.

ARTICLE 43. LIABILITY FOR DAMAGE OR INJURY

The County shall not be liable for damage or injury which may be sustained by any party or persons on the property where advertising structures/space are located other than the damage or injury solely caused by the negligence or intentional actions of the County, its agents and employees while in the course of County business, and as limited by Section 768.28, Florida Statutes.

ARTICLE 44. FIRST SOURCE HIRING REFERRAL PROGRAM

Pursuant to Section 2-2113 of the Code of Miami-Dade County, for all contracts for goods and services, the Contractor, prior to hiring to fill each vacancy arising under a County contract shall (1) first notify the South Florida Workforce Investment Board ("SFWIB"), the designated Referral

Agency, of the vacancy and list the vacancy with SFWIB according to the Code, and (2) make good faith efforts as determined by the County to fill a minimum of fifty percent (50%) of its employment needs under the County contract through the SFWIB. If no suitable candidates can be employed after a Referral Period of three to five days, the Contractor is free to fill its vacancies from other sources. Contractor will be required to provide quarterly reports to the SFWIB indicating the name and number of employees hired in the previous quarter, or why referred candidates were rejected. Sanctions for non-compliance shall include, but not be limited to: (i) suspension of contract until Contractor performs obligations, if appropriate; (ii) default and/or termination; and (iii) payment of $1,500/employee, or the value of the wages that would have been earned given the noncompliance, whichever is less. Registration procedures and additional information regarding the FSHRP are available at https://iapps.southfloridaworkforce.com/firstsource/.

ARTICLE 45. PUBLIC RECORDS AND CONTRACTS FOR SERVICES PERFORMED ON BEHALF OF A PUBLIC AGENCY

The Contractor shall comply with the state of FL Public Records Law, s. 119.0701, F.S., specifically to: (1) keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service; (2) provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law; (3) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and (4) meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the Contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency. If the Contractor does not comply with a public records request, the public agency shall enforce contract provisions in accordance with the contract.

ARTICLE 46. SURVIVAL

The parties acknowledge that any of the obligations in this Agreement will survive the term, termination and cancellation hereof. Accordingly, the respective obligations of the Contractor and the County under this Agreement, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration hereof.

ARTICLE 47. INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION and/or PROTECTED HEALTH INFORMATION

INTENTIONALLY OMITTED

ARTICLE 48. TERMINATION

48.1 The Contractor, at the termination of this Contract shall remove all of its property forthwith. Advertising materials displayed will not be considered Contractor's property. Any property of the Contractor not removed in accordance with this Article will be removed by the County to County storage at the cost of the Contractor. Failure on the part of the Contractor to reclaim its property within thirty (30) days from the date of termination shall constitute a gratuitous transfer of title to the County for whatever disposition is deemed to be in the best interests of the County.

48.2 At termination of this Contract, for whatever reason, all Contractor-provided advertising devices installed under this Contract, shall be acquired by either the County or Contractor's successor at their depreciated value. For this purpose, the Contractor shall depreciate advertising devices on a straight-line basis for five (5) years from their date of installation, unless otherwise mutually agreed to in writing by the Contractor and the Director at the time of installation. Contractor-provided advertising devices shall include any advertising display units installed by the Contractor and approved by the Director. Incidental materials used to prepare advertising copy, materials used to maintain advertising devices, will not be considered advertising devices. The Contractor shall notify the Director in writing prior to any installation of the value of the device, including such value and date of its acquisition and installation. At the termination of this Contract, for whatever reason, if such notifications have not been provided for the devices, such shall be considered to be fully amortized.

48.3 At termination of this Contract, for whatever reason, all advertising material under unexpired contracts shall remain in the display device in which it was installed at the time of termination. All materials to which advertising copy is bonded or attached or is required to maintain the advertising copy in the display device, shall become the property of the County.

48.4 The Contractor hereby grants the County or successor contractor the right to acquire at the termination of this Contract for whatever reason, all unexpired contracts for advertising for assignment to and continued servicing by the County or its successor Contractor. The Contractor shall incorporate this provision into all of its contracts for advertising under this Contract. The County, or its successor contractor, shall remit to the Contractor for the unexpired contract term or for six (6) months, whichever occurs first, a twenty percent (20%) commission on collected revenues.

48.5 The termination of this Contract, for any reason whatsoever, shall not relieve the Contractor of its obligation to make any payments which are due and unpaid at the time of such termination.

ARTICLE 49. TERMINATION FOR CONVENIENCE OF MIAMI–DADE COUNTY

49.1 The Agreement may be terminated by the County in accordance with this provision in whole, or in part, whenever the County determines that such termination is in its best interests. Any such determination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which the Agreement is terminated and the date upon which such termination becomes effective.

49.2 After receipt of a Notice of Termination and except as otherwise directed by the County, the Contractor shall:

A. Stop work under the Agreement on the date and to the extent specified in the Notice of Termination;

B. Place no further orders or subcontracts for materials, services or equipment, except as may be necessary for completion of such portion of the Work not terminated;

C. Terminate all orders and subcontracts to the extent that they relate to the terminated portion of the Agreement;

D. Assign to the County, in the manner, at the time, and to the extent directed by the

County, all of the rights, title and interest of the Contractor under the orders and subcontracts so terminated, in which case the County shall have the right, in its sole discretion, to settle or pay any claims arising out of the termination of such orders and subcontracts;

E. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval of the County, which approval shall be final for all the purposes of this provision;

F. Complete performance of such portion of the Agreement as was not terminated by the Notice of Termination; and

G. Take such action as may be necessary, or as the County may direct, for the protection and preservation of the property related to this Agreement, which is in the possession of the Contractor and in which the County has or may acquire an interest, until the effective date of termination.

49.3 After receipt of a Notice of Termination, the Contractor shall submit to the County its termination claim, if any, in the form and with the certification prescribed by the County. Such claim shall be submitted promptly but in no event later than one year from the date of termination. The failure of the Contractor to submit its termination claim within the time specified shall preclude the recovery of any costs or damages incurred by the Contractor as a result of the total or partial termination of the Agreement.

ARTICLE 50. INGRESS AND EGRESS

Subject to the Rules and Regulations of the Director, the Contractor, its employees and agents shall have the right to ingress and egress from vehicles, Metrorail stations, and the South Miami-Dade Busway with a valid identification card provided by Miami-Dade Transit. The Contractor must notify the Contract Administrator in order that proper identification authorizing admittance may be issued to Contractor, its employees or agents. All identification cards supplied by the County to the Contractor shall be returned to the County at the end of the contract year or any extension thereof or as requested by the Director at any time during the life of this Contract.

ARTICLE 51. SERVICE INTERRUPTIONS

If the Contractor is unable to perform its work or services under this Contract because of any strike or other labor unrest, fire, natural disaster, acts of God, acts of Federal, State, or local government in their sovereign capacity, or other unforeseen causes beyond the control of the Contractor and without the Contractor's fault or neglect, or the County's Metrobus, Metrorail, and Metromover systems are not available for use by the public, and twenty percent (20%) or more of the advertising devices subject to this Contract is not available to the Contractor, for more than three (3) successive days, then the contract payment retained by or paid to MDT shall be reduced on a pro-rata basis for the period of time of such interruption.

ARTICLE 52. PREMISES AND TERMS

52.1 Upon issuance by the County of the Notice to Proceed, defined herein as written notice from the County to the Contractor specifying the date on which the Contractor is to proceed with the service and on which the contract period commences to run, the County grants the Contractor the right to sell, install, display, maintain, change, and remove advertising, including posters and other forms of advertising devices, at locations approved by the Director

of Miami-Dade Transit or his/her designees (hereinafter referred to as the "Director") for transit vehicles, Metrorail stations, and the South Miami-Dade Busway. These locations are initially designated to include the inventoried devices as designated in Exhibit 1, Agreed Upon Inventory, attached hereto and made a part hereof. The advertising display device inventory shall be subject to change. The contract anniversary date shall be one year from the date specified in the Notice to Proceed. The Annual Minimum Guarantee shall be applicable upon Notice to Proceed.

The Contractor is granted exclusivity as to the specific advertising devices included in this Contract. The Contractor is responsible for the replacement of the devices.

52.2 The Director reserves the right without limitation at all times during the term of this Contract, and any extensions thereof, to require the addition, removal, change of location, modification or refurbishment of any or all advertising devices covered under this Contract. The Director has the right, without limitation, to add or delete advertising devices at any time during the term of this Contract, and any extensions thereof.

52.3 The rights granted herein to the Contractor are not in derogation of the rights of the County to grant to licensees, concessionaires, and lessees the right to advertise in the premises or space used by them for their own business. Should the Contractor supply such advertising for monetary consideration the County shall share in such consideration as provided herein. The Contractor shall have no claim against the County for any lost revenues that may be attributable to the exercising of these rights by the County. The County reserves the right to place self-promotional material and devices in or on any County owned facility or property. The Director, at its sole discretion, further reserves the right to allow vendors or advertisers the use of County owned facilities including Metrorail stations and the South Miami-Dade Busway for special short-term joint promotions which encourage the use of public transportation.

52.4 Assignment of buses to routes and/or transit facilities: It is hereby expressly understood and agreed that the sale of advertising privileges is only incidental to the business of the County. Contractor shall not have the right to request/include as part of any agreement the transferring/reassignment of buses between routes and/or transit facilities.

52.5 The Contractor shall have no claim against the County, including, but not limited to, adjustments to the Annual Minimum Guarantee and/or the Agreed-Upon Inventory caused by changes to bus routes, assignment of buses to different routes and/or Metrobus garages/facilities, transit vehicles temporarily removed from service due to mechanical failure or damage caused by accidents, or similar changes resulting from the operation of the transit system.

52.6 New Advertising Opportunities and Nonexclusivity: This Contract is nonexclusive in character and shall in no way prevent the County from offering or authorizing the sale of competitive services, products or items by other concessionaires or others in other locations or facilities not specifically listed in Exhibit 1 attached hereto. The Contractor shall have no rights to any new display device that may be made available by the County. The County retains the right to enter into contractual arrangements with parties other than the Contractor for the use and installation of new advertising opportunities which are not included in this Contract. The Contractor does not have the right of first refusal for new advertising opportunities. All recommendations regarding new advertising opportunities are subject to review and approval by the Director or his/her designee whose decision in such matters shall be final. The Contractor may, however, at the County's sole discretion, be given the opportunity to adopt and implement such opportunities, provided the following are met:

(a) The Director and the Contractor are able to mutually agree to monthly sales rates, which will be charged for each unit of each type of new advertising device.

(b) The Director and the Contractor agree to the allocation of expenses involved in the installation, maintenance, and removal of new advertising devices including all necessary repairs, if any, to transit vehicles and transit properties damaged by the installation and/or removal of new advertising devices.

52.7 New Advertising Device: In the event that a new advertising device is added to the Agreed-Upon Inventory under this Contract, a six (6) month trial period will commence. Once the trial period is over, and only after Director's final approval, the new device shall become a part of the Agreed Upon Inventory.

52.8 The Contractor, under this Contract, does not lease or occupy any portion of MDT premises or facilities.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the contract date herein above set forth.

Contractor	Miami-Dade County
By:	By:
Name: Raymond Dooak	Name: Carlos A. Gimenez
Title: EVP/CAO/US CFO	Title: Mayor
Date: 9.15.14	Date:
Attest: Corporate Secretary/Notary Public	Attest: Clerk of the Board
Corporate Seal/Notary Seal	Approved as to form and legal sufficiency
ERIC DAVIS Notary Public, State of New York No. 02DA6083590 Qualified in Kings County Commission Expires November 18, 2019	Assistant County Attorney

2.1 Background

The Contractor shall manage the transit advertising program. Such advertising shall be in the form of:

At Metrorail stations: back-lighted "diorama" poster displays, non-illuminated bench windscreens, non-illuminated wall-mounted poster displays, map/advertising displays, digital information/advertising units and station domination opportunities.

At South-Miami Dade Busway: Self-standing, back-lighted advertising devices along the dedicated road and the outer panel signage on the Busway square advertising devices along limited bus stops.

Metromover exterior wrap advertisement with limited window coverage.

Metrorail exterior wrap advertisement with limited window coverage (existing train fleet only).

Inside transit vehicles: Inside Metrobus and Metrorail car advertising posters, and inside Metrobus, Metrorail, and Metromover floor and ceiling wrap opportunities.

Exterior of buses: Taillight advertising panels; Full-Back advertising panel on back of buses; King Size advertising panels on side of buses; Queen Size advertising panels on side of buses; Ultra King (no window coverage) and Ultra Super King panels (including window coverage on one side of bus only) applied directly to the side of buses between wheel wells; Metrobus exterior full-wrap advertisement (limited window coverage and excluding the front of vehicles), and other approved forms of advertising at such times and locations as designated and approved by the Director of Miami-Dade Transit (hereinafter referred to as the "Director"). The current advertising device inventory is listed in Exhibit 1 of the Sample Agreement included in this RFP.

2.2 Requirements and Services To Be Provided

The Contractor shall secure necessary sales, complete ad installations, provide maintenance personnel, and a local Miami-Dade County based full time account representative who is authorized to act on behalf of the Contractor. The responsibilities of the Contractor shall include, but not limited to the following:

a) Aggressively pursue sales of advertising devices in/on MDT vehicles (Buses, Metrorail, Metromover), Metrorail stations, and the South Miami-Dade Busway.

b) Provide billing services

c) Preparation of related financial and operating reports as specified in section 2.5.

d) Placement of advertising materials and all related operations including preparation of advertising materials for installation, scheduling of work, and removal of expired materials.

e) Maintenance of all advertising devices shall include maintaining all display devices listed in Exhibit 1 in clean, graffiti-free and good condition.

f) Restore transit vehicles to their original condition if any damage occurs due to installation and/or removal of any advertising device.

All installation, maintenance, and personnel shall be properly uniformed shall present a neat and clean appearance at all times and adhere to Transit Security Protocols. The Contractor shall control the actions of its employees and remove from employment any employee whose conduct the Director determines is detrimental to the best interests of the general public or the County.

The installation and removal of advertising devices and materials shall take place during hours of minimum passenger and visitor activity, at such hours as approved by the County.

All contractors and subcontractors are required to have a current ID card displayed while on MDT property at all times. In order to obtain a new or renewed Contract ID card, the following paperwork must be submitted in person:

a) A completed, **original** contractor ID application, completed in **blue** ink, and signed by both the contractor/subcontractor and an MDT authorized representative.
b) A completed, **original** fingerprint card.
c) A completed, **original** National Crime Information Center (NCIC) background check form with a proper raised seal.

All documents must be original, and can have no alterations or markings. Similarly, all documents must be produced in person. No emails, PDF files, or facsimiles will be accepted.

Copies

All copies of original documents will be maintained by an MDT inventory control specialist.

Ineligibility for issuance or renewal of contractor/subcontractor ID cards

Personnel may not be issued a new or renewed contractor or subcontractor ID if he/she currently or in the past has:

- Any felony, sexual, or domestic violence conviction
- Been discharged from the military under any conditions other than honorable
- Any history of irresponsible behavior including but not limited to an unreasonable driving record, or a problem employment record as determined by the county contract administrator or designee
- Any criminal activity listed in 49 US Code of Federal Regulations (CFR) section 1542.209, *Disqualifying Criminal Offenses* and 19 CFR 122.183, *Denial of Access*.

Display of ID card

All contractor and subcontractor personnel **must** at all times conspicuously display their contractor/subcontractor ID card. Prior to entry, and at all times while on MDT property, contract and subcontract personnel are subject to ID checks by any authorized MDT agent. Any personnel not in possession of their ID card will be denied access to MDT property, or if already on property will be immediately escorted off MDT property until such time as he/she can display proper ID.

All contract and subcontract personnel are subject to random ID checks while on MDT property, at any time for any purpose, by any authorized MDT agent.

Limit of Duration of Contractor/Subcontractor ID card

New or renewed contractor/subcontractor ID cards shall be valid for a time not to exceed one year. All issued contractor/subcontractor cards must be renewed prior to the completion of the one year period to maintain all contractor/subcontractor privileges included therein. Any contractor or subcontractor who fails to comply with the one year renewal requirement is strictly forbidden from entering any MDT property as a contractor/subcontractor until such time as the ID card is renewed and returned to valid status.

The installation and removal of bus advertising devices shall take place when such vehicles are not in service.

2.3 Unsold Advertising Space

The Contractor shall keep all advertising spaces occupied with advertising materials at all times. Devices not used by

paid advertising shall be filled in the following order of priority:

(a) Transit information or Miami-Dade Transit self-promotional materials

(b) County services information or self-promotional materials

Any use of unsold advertising space may be pre-empted by cash sales. The Contractor shall maintain a complete inventory of all unsold devices occupied by County advertising materials posted by the Contractor. Contractor shall be responsible for the installation and removal of County materials.

2.4 Advertising Content

All advertising materials, advertisement content and manner of presentation shall be subject to approval by the Director prior to installation, which may disapprove any such items at its sole discretion. The Director is authorized to deny the placement of any advertisement, which in his/her opinion is detrimental to the aims, purposes, goals, or reputation of Miami-Dade County and/or Miami-Dade Transit.

The Contractor shall remove from the vehicles, Metrorail stations, and the South Miami-Dade Busway, at its sole cost and expense, within three (3) days upon receipt of written demand, any advertising material that is disapproved, damaged, or becomes unsightly. Any advertising material previously approved, which may subsequently be considered objectionable by the Director shall likewise be removed. If Director requires the removal of previously approved advertisements, Contractor shall be entitled to reasonable production costs incurred. Contractor shall provide written documentation verifying production costs and production expenditures.

In the event that such disapproved material is not removed within three (3) days upon receipt of written notice, the Director may cause said material to be removed, and the Contractor shall pay all related costs and expenses. The County shall not be liable for any damages in connection therewith. Refusal by the Contractor to remove said material shall be considered a default of this Contract, which shall be considered as waived by the corrective action on the part of the County and reimbursement of all costs and expenses by the Contractor.

The Contractor shall adhere to generally accepted principles of advertising in relation to good taste and truth in advertising. Whenever a question arises as to the propriety of an advertisement, the Contractor is required to submit the advertisement to the Director for review and approval prior to installation.

Tobacco advertising and/or political or political campaign advertising shall not be allowed.

Advertising of alcoholic beverages shall be permitted with the following restrictions:

(a) To avoid overexposure, this category shall be limited to no more than 25 percent (25%) of the contract's Agreed-Upon Inventory to include Metrobuses, Metromover and Metrorail vehicles, Metrorail stations, and the South Miami-Dade Busway;

(b) Miami-Dade Transit (MDT) staff must pre-approve all ads for alcoholic beverages

(c) All advertising of alcoholic beverages must include the disclaimer below as mandated by the Alcohol Beverage Labeling Act (ABLA) of 1988. Government warning disclaimer must be equal to at least 10% of the size of the ad:

> GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problem.

2.5 Reports

Monthly Report

The Contractor shall provide MDT with a link or access to real-time reports in Contractor's current reporting system. Access to reports shall include but not be limited to:

a) Gross billings and net billings – All Gross and Net Revenue billings.

b) A copy of each and every contract or agreement by the Contractor -- including, but not limited to, local and national agreements, agency commission paid or unpaid including trade, and bonus or free space traded.

c) Inventory occupancy by device – Includes the total sold/unsold space by device type; total advertising space traded or bartered by device type; and the total advertising space used for public service announcements by device type.

d) Installations and removals of advertisement devices -- Includes the name of the advertiser, advertising agency (if applicable), the type of advertising device, quantity per type of advertisement device installed and/or removed, date of installation and location per advertising device (i.e. bus number, bus exterior side, Metrorail station, Busway location, etc.)

End of Contract Year Revenue Report

The Contractor shall, within ninety (90) days following each anniversary date of this Contract, submit to the County a Revenue report prepared and signed by an Independent Certified Public Accountant, as to the Contractor's operations under this Contract. Said Revenue report shall be prepared in conformance with the American Institute of Certified Public Accountants' requirements for special reports. Such Revenue reports shall contain twelve (12) full calendar months of reconciliation and summary of 12 months of reports.

While the County does not expect to request other reports on a routine basis, there may be instances when the County may require a special report as it relates to the contract services. The Contractor shall provide all required reports to the County, in a format, frequency and quantity acceptable to the County.

Within ninety (90) days from the date the Contractor is required to provide the End of Contract Year Report, the County shall make a reconciliation of the total amount paid by the Contractor to the County during a contract year based on the Minimum Annual Guarantee and the percent of Net Revenue calculations.

In the event that the total amount paid by the Contractor to the County at the end of a contract year was less than the Minimum Annual Guarantee or the percent of the Annual Net Revenues required under this Contract, whichever is greater, a payment for the difference owed to the County shall be made by the Contractor within thirty (30) days from written notification from the County to the Contractor on the reconciliation outcome.

2.6 Inventory

FRAMING OF BUSES

The Contractor shall provide, install, maintain and replace, at its own cost, all necessary Metrobus interior and exterior (if any) advertising display hardware (frames, card springs, etc.). The County must approve changes from current practices. All hardware, once installed on or in transit vehicles under this Contract shall become the property of the County. As vehicles are taken out of service for disposal, it shall be the Contractor's responsibility to remove all advertising hardware (if any) from such vehicles.

ADVERTISING DEVICE RELOCATION

The present locations of all advertising devices under the Agreed upon Inventory are permanent. No advertising device may be removed or relocated by the Contractor without prior written approval of the County. The Contractor shall remove, reinstall and/or relocate any advertising device at the County's discretion and upon direction by the County and at no cost or expense to the County. The Contractor should consider all advertising hardware locations as permanent.

ADVERTISING DEVICES RESERVED FOR MDT

The following advertising devices shall be reserved for the exclusive use of MDT through the contract year:

(a) Five interior devices in each Metrorail vehicle.

(b) The device directly behind the driver's seat (bulkhead) in the interior of each bus.

(c) The two devices nearest the front door (one on each side) located over the windows in the interior of each bus.

(d) All center bench windscreen advertising device in Metrorail stations.

(e) Five South Miami-Dade Busway Advertising Kiosk panels between SW 104th Street and SW 160 Street.

(f) MDT shall receive guaranteed posting for promotional purposes of at least 25 bus exterior devices at MDT's discretion.

(g) Any advertising device not included in Exhibit 1, otherwise authorized by the Director.

2.7 Audio and Text Advertising

The County at its sole discretion reserves the right to modify the Agreed-Upon Inventory to include audio and text advertisement on its Metrobus, Metromover, and /or Metrorail Vehicles. The County at its sole discretion may award a contract to a different provider for said audio and text advertisement inside Transit vehicles.

2.8 Installations, Removal and Damages

The Contractor shall reimburse the County for the cost as determined by the County of repairs for any damage caused by the Contractor, its employees, subcontractors, and agents to transit vehicles, Metrorail stations, South Miami-Dade Busway advertising devices, or any other MDT property including damages occurred due to the installation and/or removal of advertising devices. If County makes repairs, the cost of the repairs shall include all materials and labor necessary to return the device or structure to its original condition. County labor cost for shall be at the current rate for personnel completing the repair plus fringe benefits at the then labor rate.

The Contractor shall restore transit vehicles to their original condition if any damage occurs while installing and/or removing advertisement materials. If the Contractor fails to restore the transit vehicles to its original condition, the County shall have the right to have repairs completed and requires the Contractor to reimburse the County.

Transit vehicle numbers must be visible at all times regardless of the advertisement on the vehicles, unless the Director grants prior written approval.

At no time shall advertisement materials be installed on the front of transit vehicles. On Metromover, no advertisement device installation will be allowed on the front and the back of cars.

In the event that the Contractor fails to conform to this regulation, the County, at the sole discretion of the Director, will be able to remove all or the portion of the advertising device(s) covering any part or all window area. The County shall have the right to seek monetary reimbursement for all costs associated with the removal of such device(s) as

stated in Section 8.03 above.

Should the need arise to cover or partially cover an MDT logo decal with an advertisement device, the Contractor must obtain prior written approval from the Director (full-wrap bus ads excluded). In addition, the Contractor will be responsible for replacing each MDT logo decal damaged as a consequence of installation and/or device removal.

All advertising materials shall be removed within seven days of its contract expiration date. All dated advertising materials shall also be removed within seven days of the date shown on the advertisement. In the case that the Contractor fails to remove such materials, the County can remove such advertisement materials at the sole cost to the Contractor.

The Contractor, in connection with the installation of any advertising device, shall not alter Metrorail stations, the South Miami-Dade Busway Advertising devices, or any part thereof without prior written approval by the Director. The Director reserves the right to make such improvements to Metrorail stations and South Miami-Dade Busway Advertising devices, as it may deem desirable at any time.

2.9 Payments to the County

The Contractor shall pay the County the highest of the Minimum Annual Guarantee or a percentage of Monthly Gross Revenue from the date of the Notice to Proceed and through the termination date of the Agreement (see Form B-1).

Minimum Annual Guaranteed

The Contractor shall pay to the County 1/12 of the Minimum Annual Guarantee (MAG) due in advance on the first day of each calendar month via electronic payment (ACH/Wire). The MAG proposed shall be no less than 2 million dollars per year. Any proposed MAG less than 2 million dollars in any year will not be eligible for award.

If the percentage fee due to the County on the monthly revenue exceeds the MAG payment, the Contractor shall pay the County the difference between the MAG and the percent of all Net Revenues in addition to the MAG by the 10th day of the calendar month following the month during which the Net Revenues were received or accrued via electronic payment (ACH/Wire). Payments received by the Contractor in advance shall be reported as Net Revenues in the month the money is earned, calculated on a straight-line basis. (See example base on a 2 million dollar MAG and 60% Net Revenue below).

	MAG on the First Day of the Month	Total Net Revenue	60% of Net Revenue	Payment to County on the 10th Day of the following Month
January	$166,666.66	$500,000.00	$300,000.00	$133,333.34
February	$166,666.66	$525,000.00	$315,000.00	$148,333.34
March	$166,666.66	$550,000.00	$330,000.00	$163,333.34

Increase/Decrease in Agreed-Upon Inventory: In the event there is an increase or decrease by 20% or more, at any time during a contract year, in the total number of buses designated by MDT as included in the Agreed-Upon Inventory in effect at the time of the increase/decrease (Exhibit 1), the Minimum Annual Guarantee shall be recalculated as provided below.

The Minimum Annual Guarantee shall be adjusted to be effective with the first day of the calendar month following such recalculation. Such adjustment shall be prorated for purposes of adjusting the Minimum Annual Guarantee for the contract year. Failure by the Contractor to request in writing to the County any adjustments to the Agreed Upon Inventory and/or Minimum Annual guarantee with ninety (90) days of receipt of notice from the County of the actual inventory adjustment by the County shall result in a waiver by the Contractor of claims and/or rights to any

adjustments with respect to such actual inventory adjustment during the term of this Contract and any extensions thereof.

For purposes of this section, the total number of buses shall include the full-size and minibus fleet.

All recalculations of the Minimum Annual Guarantee shall be accomplished as follows:

(1) The Minimum Annual Guarantee for each contract year under this Contract – At the commencement of each new contract year, the corresponding Minimum Annual Guarantee for that specific contract year under Form B-1.

(2) In the event that there is an increase/decrease of 20% or more of the number of buses available as included in the Agreed-Upon Inventory in effect at the time of the increase/decrease, the Minimum Annual Guarantee will be adjusted upward or downward, as the case may be, by the same percentage as the increase/decrease of the number of buses available.

Any increase/decrease to the number of Metrorail vehicles, Metrorail station devices, Metromover vehicles, and the South Miami-Dade Busway advertising devices shall not cause an adjustment to the Annual Minimum Guarantee, unless otherwise requested and/or approved by the Director.

2.10 Pro Forma

Proposals shall include a Pro Forma that generally provides a financial analysis integrating revenues, payroll expenses, costs of goods and services, investments and depreciation, operating expenses, and net revenue for a period of first five (5) years of the project's operation. The financial analysis and feasibility of the project shall be presented in a fashion to enable a clear understanding of financial feasibility and financial inflows and outflows over the projection period.

2.11 Laws, Regulations, and Permits

COMPLIANCE

The Contractor shall comply with all laws, ordinances, regulations, and rules of Miami-Dade Transit and the County, State, and Federal governments, which may be applicable to its operation under this Contract.

PAYMENT OF OBLIGATIONS

The selected Contractor shall pay all costs and expenses in connection with its operations under this Contract and the rights and privileges herein granted, including without limitation, permit, and license fees. The Contractor shall assume and pay all personal property taxes levied or assessed against its property located in Metrorail stations, transit vehicles, and the South Miami-Dade Busway. The Contractor may be required to report, and display evidence that all permit, excise, and license fees and personal property taxes have been paid.

2.12 Trade or Barter

During the term of this Contract, the Contractor may not enter into trade or barter agreements related to the Agreed Upon Inventory without the prior written approval of the MDT Director.

2.13 Rates

The Contractor shall establish all rates for the sale of advertising devices included in the Agreed-Upon Inventory. All advertising sales rates and related charges shall be provided to the Director for information. Rates, including any long-term discount to be offered (e.g., three-month, six-month, twelve-month rate), that will be effective from the commencement of this Contract, shall be submitted to the Director within 15 days from award of the Notice to Proceed. Subsequent sale rate adjustments shall also be submitted to the Director for information no later than 30 days prior to the effective date of the adjustment. The County will not be responsible to the Contractor for any loss of anticipated profits or subsequent damages resulting from an inaccurate estimate of annual sales rates for

advertising devices.

2.14 General Maintenance

The Contractor agrees that its representatives and employees will not deface or damage any transit property or deposit or scatter any rubbish, waste, or litter in or about any transit facility or vehicle. The Contractor will, at its own expense, promptly remove any such rubbish, waste, and litter caused by any of its representatives or employees.

The Contractor will maintain, at its own expense, all advertising devices and the advertising materials clean and in good repair and free of graffiti at all times. The Contractor, at its sole cost and expense, will take remedial action on any advertisement device-related complaint including graffiti, cleanliness, safety-related condition, etc. within 24 hours of verbal notification by the Director or his/her designee. The Director reserves the right to immediately remove any device or advertising material which may be hazardous or offensive to the public.

The Contractor shall be responsible, at its own expense, for all maintenance of advertising devices as needed, or as requested by the Director. This maintenance shall include keeping in working condition all electrical components, repairing and/or repainting of frames, replacement of the acrylic covers, and the removal of any graffiti on them. The maintenance shall also include a thorough inspection of all hardware for loose electrical wires, frayed wires, loose poster frames, sharp edges, replacement of burnt-out lamps, etc. The Contractor is sole responsible for insuring that all electrical devices conform to standard safety measures and do not represent a hazard to any person. All parts and materials used in the maintenance of advertising devices shall become the property of the County.

While the County continually makes a good faith effort to keep Metrorail stations, Metrorail/Metromover vehicles and the interiors and exteriors of Metrobuses in a reasonably clean condition so that the ability of the Contractor to sell and renew advertising accounts will not be impaired, the County cannot guarantee the cleanliness of these vehicles and facilities or the Contractor's advertisements installed thereon.

Electric Power: The County shall provide the electricity used for the operations and lighting of advertising devices at the sole discretion of the Director.

EXHIBIT 1
AGREED-UPON INVENTORY

METRORAIL STATIONS AVAILABLE FOR ADVERTISING

Dadeland South
Dadeland North
South Miami
University
Douglas Road
Coconut Grove
Vizcaya
Brickell
Government Center
Historic Overtown/Lyric Theatre Station
Culmer
Civic Center
Santa Clara
Allapattah
Earlington Heights
Miami International Airport *
Brownsville
Dr. Martin Luther King Jr.
Northside
Tri-Rail
Hialeah
Okeechobee
Palmetto

ADVERTISING DEVICES APPROVED FOR POSTING AT METRORAIL STATIONS:

Diorama Advertising Device – 43" high x 62" wide
Back-lighted (transparency) self-standing poster display device available in concourse area of stations except Government Center, Palmetto, and Miami International Airport Metrorail Stations.

Bench Windscreen Advertising Device -- 46" high x 60" wide, non-illuminated poster display device. Each bench structure contains six devices. The center space on both sides of bench structure is reserved for MDT.

Wall-mounted Advertising Device – 46" high x 60" wide
Non-illuminated poster display attached to the walls at several Metrorail stations.

Digital Information/Advertising Units – Electronic advertising display units located on the platform level of all Metrorail Stations.

Station Domination – An advertising package that includes various types and quantities of devices sold as a single device and installed at a single Metrorail Station. This device requires Director's approval.

*Station Domination is not allowed at the Miami International Airport Metrorail Station

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METRORAIL VEHICLES: 136 CARS

Interior Metrorail Advertising Device – 23" high x 22" wide
Five display devices reserved for MDT.

Interior Metrorail Domination – Inside domination allowed on a case by case basis with the MDT Director's approval only.

Exterior Metrorail Advertising Device – Applied advertising device covering all or part of the exterior body, excluding windows. Limited window coverage may be allowed on a case by case basis with the MDT Director's approval only. **All Metrorail exterior advertising must be pre-approved by the MDT Director before installation.**

NOTE: Acceptance of new rail vehicles is scheduled to begin May 2016 – August 2018. New rail vehicles are to be phased in. Exterior advertising will not be allowed on the new rail vehicles.

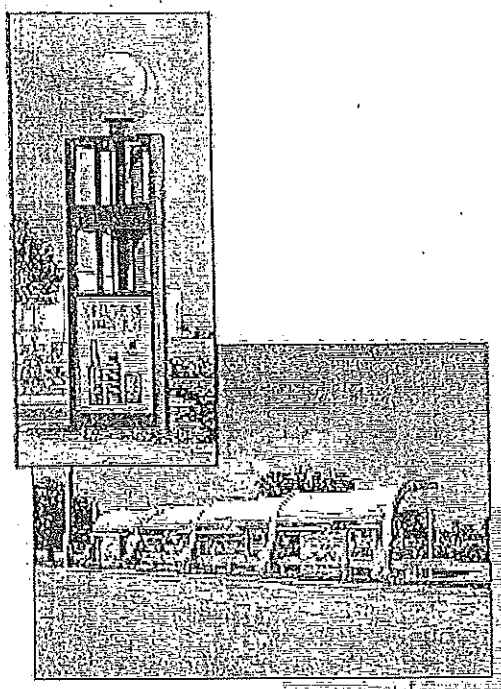
METROMOVER VEHICLES: 25 CARS

Exterior Metromover Advertising Device – Applied advertising device covering all exterior body, except front and rear of Metromover cars. **Limited window coverage allowed on a case by case basis with the MDT Director's approval only. All exterior Metromover advertising must be pre-approved by the MDT Director before installation.**

Interior Metromover Domination – Inside domination allowed on a case by case basis with the MDT Director's approval only.

South Miami-Dade Busway Advertising Panels

The eye-level advertising panels along the South Miami-Dade Busway are easily spotted from US 1 and from the heavily travelled intersection streets. The 30 backlit Busway ad kiosk panels are 4' W x 6' H and the 10 non-illuminated Busway square ad panels are 84.25" W x 81.25" H. These ad panels are exposed to vehicles traveling along US 1 daily between SW 104 St and SW 168 St.



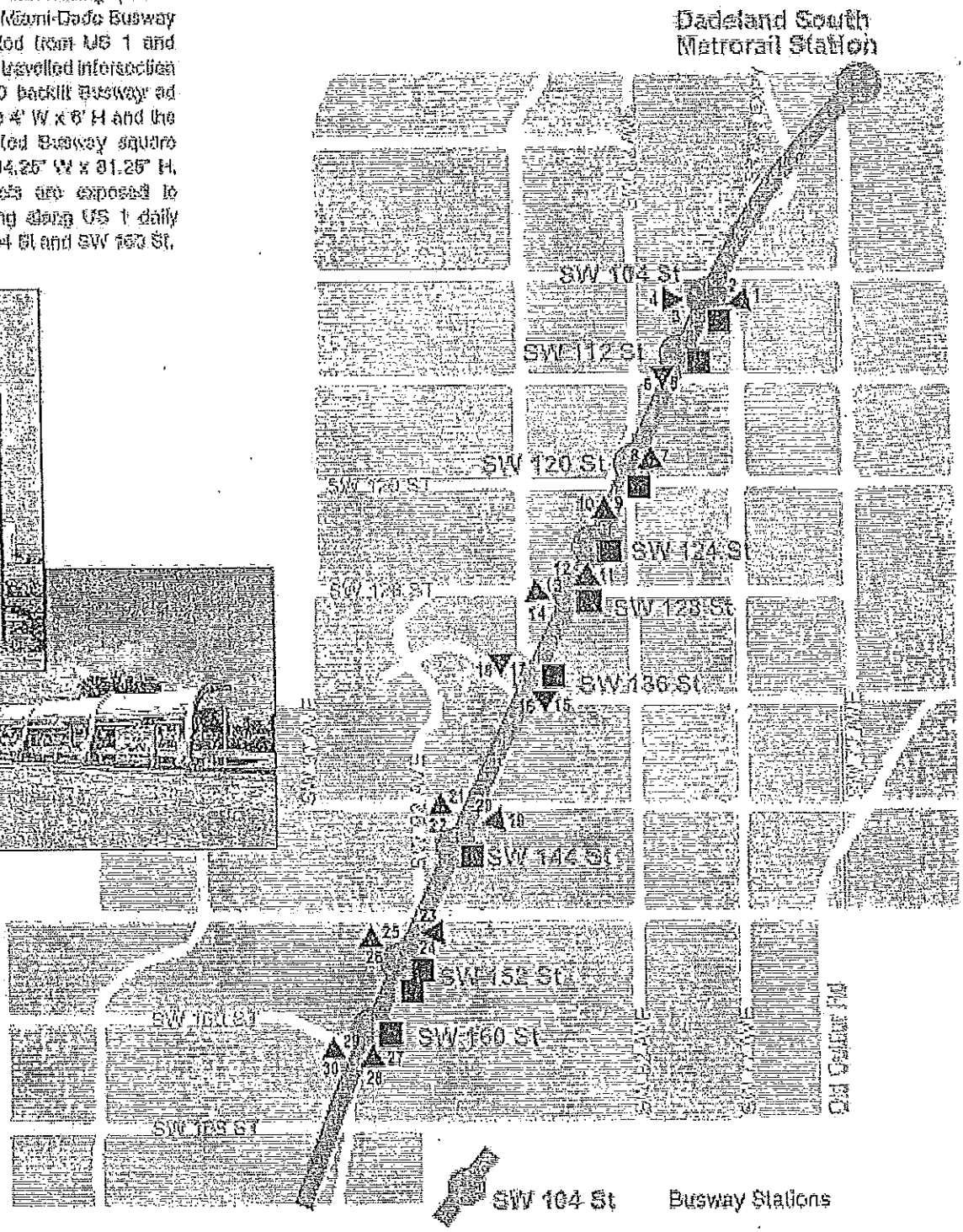
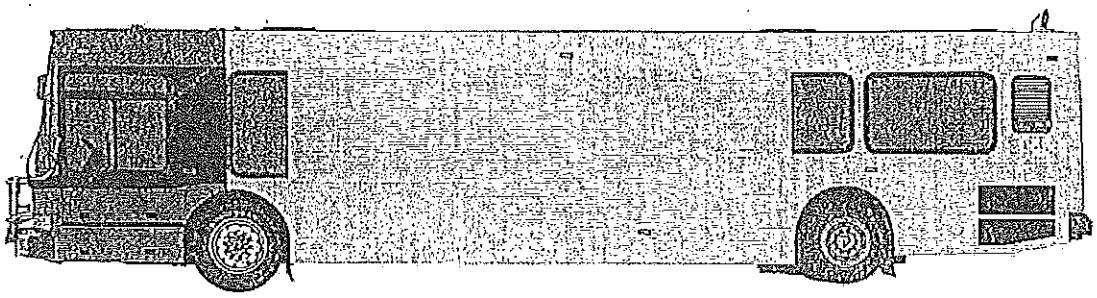
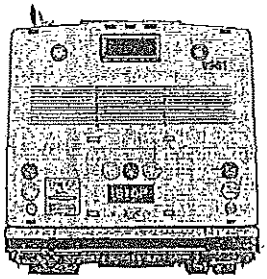
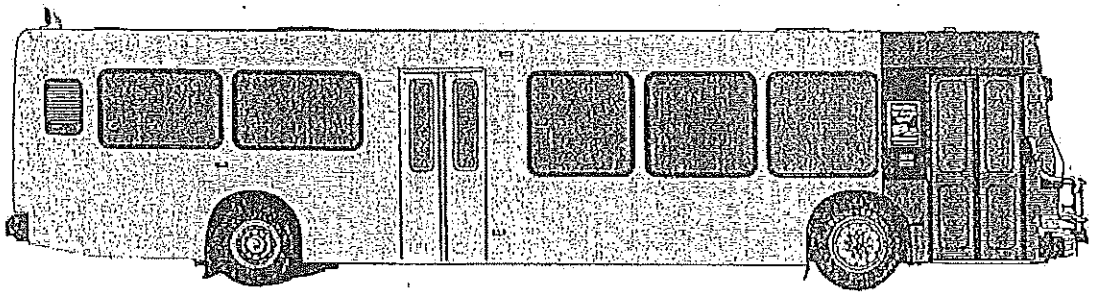


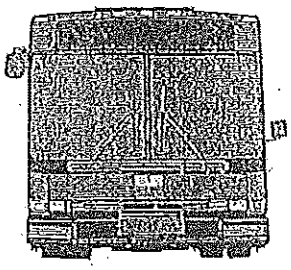
EXHIBIT 1 | ATTACHMENT A

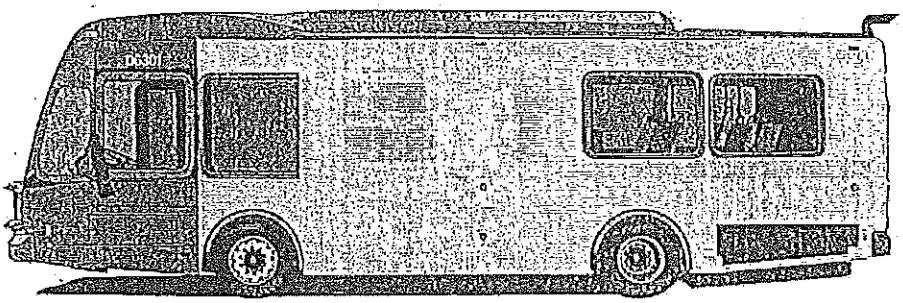
PROPOSED SAMPLE

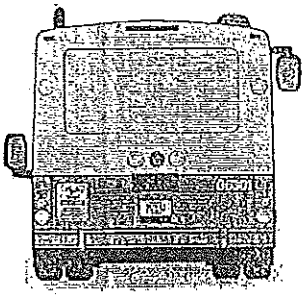


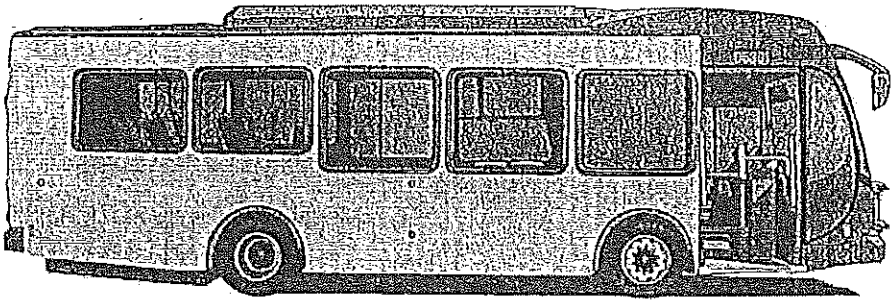


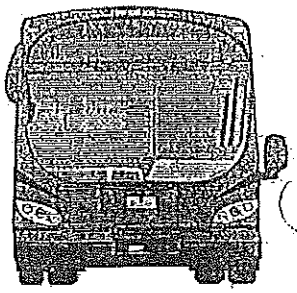












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FORM B-1: REVENUE SCHEDULE

INSTRUCTIONS

Proposer shall complete and fill in all blanks on this Form B-1. Proposer's failure to adhere to this Revenue Schedule format may render its proposal non-responsive. Proposed revenue Schedules will be evaluated in accordance with Section 4.6 of the solicitation document.

PERCENTAGE NET REVENUE EVALUATION

Proposer shall propose a Percentage Net Revenue by indicating a Percentage Net Revenue per year over a five-year period that will be paid to the County. The percentage net revenue shall not be less than 60%. Any Proposer with a proposed Percentage Net Revenue less than 60% will not be eligible for award. The proposed Percentage Net Revenue submitted will be used to evaluate Proposer's revenue offer.

Please complete the Percentage Net Revenue chart below:

Percentage Net Revenue	Annual Percentage Net Revenue (Paid to the County on a Monthly Basis) – **Must Be at Least 60%**
Year 1	60 %
Year 2	60 %
Year 3	60 %
Year 4	60 %
Year 5	60 %

MINIMUM ANNUAL GUARANTEED REVENUE (MAG)

The selected Contractor shall pay to the County 1/12 of the Minimum Annual Guaranteed (MAG) on a monthly basis, on the first day of each month. The MAG proposed shall be no less than 2 million dollars per year. Any Proposer with a proposed MAG less than 2 million dollars in any year will not be eligible for award. Please include the **annual MAG amount** for each of the five years listed below.

MAG Payment

Must be at least $2 million each contract year

Year 1	$ 3,250,000.00
Year 2	$ 3,350,000.00
Year 3	$ 3,450,000.00
Year 4	$ 3,550,000.00
Year 5	$ 3,650,000.00

NOTE No. 1: Please note that the County reserves the right to negotiate percentage net revenues, and MAG amounts.