

**GREATER PORTLAND TRANSIT DISTRICT (METRO)
REQUEST FOR PROPOSALS
TRANSIT ADVERTISING SERVICES
RFP #2018-006**

Greater Portland Transit District (METRO) is accepting proposals for providing TRANSIT ADVERTISING SERVICES on transit assets. Proposals should be submitted in a sealed envelope, clearly marked as “Transit Advertising Services”, and be received **at METRO offices**, 114 Valley Street, Portland, ME 04102, no later than **Tuesday, December 18, 2018, at 2:00 p.m.** Proposals received after that date and time will not be accepted.

Firms must be registered with METRO in order to submit a package by emailing lshaw@gpmetro.org, or calling 207-774-0351. Receipt of this document directly from METRO indicates registration. Should a firm receive this Request from a source other than METRO, please contact METRO to ensure that your firm is listed as a vendor for this RFP.

GENERAL SCOPE

METRO is soliciting proposals to sell and manage advertising on its fixed route transit buses, which provide public transportation service to the communities of Portland, Westbrook, and Falmouth, and Gorham. METRO also provides express public transportation service to Freeport, Yarmouth, and Brunswick. Express transit buses are not available for exterior advertising. METRO also has shelters available for advertising.

QUESTIONS

All questions should be made in writing and directed to Lauren Shaw, Executive Assistant, at lshaw@gpmetro.org and be received no later than **Thursday, November 29, 2018 at 4:00 pm EST.** Questions received after this time will not be addressed. Responses from METRO that substantially alter this RFP will be issued in the form of a written addendum.

FEDERAL REQUIREMENTS

METRO receives funding from the Federal Transit Administration and as such is required to follow federal procurement regulations and to require its consultants and contractors to understand and adhere to those requirements, as well as Termination and Dispute requirements for contracts, which will be included in the contract with the successful proposer. (see **APPENDICES A and B**)

Proposals should include signed “Certification Regarding Debarment, Suspension, Other Ineligibility, and Involuntary Exclusion”, and “Certification of Restrictions on Lobbying”, as enclosed in this RFP.

Firms should note that following announcement of an award decision, all submissions in response to this RFP will be considered public records available for public inspection pursuant to the State of Maine Freedom of Access Act. Unless indicated by the proposer in their submission, METRO will not undertake to determine whether any proposal or part of any proposal is confidential or otherwise protected from disclosure.

As required by Federal Law, and in keeping with good practice, the contractor agrees to pay each subcontractor for satisfactory performance of its work no later than thirty days from the receipt of each payment the prime contract receives. Any delay or postponement of payment from the above referenced

time frame may occur only for good cause following written approval of METRO. This clause applies to both DBE and non-DBE subcontracts.

INSURANCE and INDEMNIFICATION

The selected advertising company shall be required to enter into a contract with METRO, which will include the following.

To the fullest extent permitted by law, the contractor shall defend, indemnify and hold harmless METRO, its officers and employees, from and against all claims, damages, losses, and expenses, just or unjust, including but not limited to the costs of defense and attorney's fees arising out of or resulting from the performance of this Agreement, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, including the loss of use therefrom, and (2) is caused in whole or in part by any negligent act or omission of the contractor, anyone directly or indirectly employed by it, or anyone for whose act it may be liable.

The contractor will procure and maintain Liability Insurance coverage and Automobile Insurance coverage for the Work agreed to under this Agreement and as outlined within the contract documents, whether such operations be by themselves or by any subcontractor under them, with a limit of liability of not less than \$1,000,000 for all damages arising out of bodily injury, including death, at any time resulting therefrom, sustained by any one person in any one accident; and a limit of liability of not less than \$1,000,000 aggregate for any such damages sustained by two or more persons in any one accident, naming METRO as an additional insured on the policy, and provide the METRO a certificate of insurance evidencing such coverage. The contractor shall also provide proof to METRO of Workers' Compensation coverage.

EVIDENCE OF FINANCIAL CAPACITY

Proposers will be required to include in their proposals evidence of financial capacity to undertake and complete this contact.

RESERVATION OF RIGHTS

METRO reserves the right to reject any or all proposals, or to waive any informality, should it be deemed in the best interest of METRO to do so.

During the evaluation process, METRO reserves the right to request additional information or clarifications from proposers. METRO reserves the right to confirm qualifications and performance of proposers. Firms are also noticed that METRO, as required by FTA, will conduct a check with the System for Awards Management (SAM) for any disbarment or disqualification from being awarded work that is paid for with federal funds.

METRO reserves the right to retain all packages submitted and to use any ideas in a package regardless of whether that firm is selected. Submission of a package indicates acceptance by the firm of the conditions contained in this request.

METRO is exempt from the State's sales and use tax as well as all Federal excise taxes

Ellen Sanborn
Finance Director

BACKGROUND

METRO currently operates 10 LOCAL fixed routes, starting at about 5 AM and operate until about 12 midnight, with shorter hours on weekends. LOCAL routes serve the communities of Falmouth, Gorham, Portland, South Portland and Westbrook. METRO also provides EXPRESS public transportation service connecting Portland, Freeport, Yarmouth and Brunswick. Express transit buses are not available for exterior advertising. **Attachment 3** shows total boardings by month for 2016, 2017 and 2018 to date. Shelter advertising is also included in the scope of this RFP. **Attachment 2** shows the list of shelters available for advertising.

METRO has numerous transit pass program agreements with a number of educational institutions. These programs provide unlimited access transit passes to high school students at Portland Public Schools, and the Baxter Academy, a charter STEM school in Portland. . Additionally, METRO has unlimited access transit pass programs for students, staff and faculty at Southern Maine Community College and the University of Southern Maine. These programs combined are estimated to contribute about 600,000 annual boardings.

METRO utilizes a smart phone application for real-time bus tracking and is interested in ideas and opportunities to generate revenue on this type of app. METRO is also interested in exploring other areas for digital advertising throughout the public transit network, including on-board digital screens, dynamic vehicle exterior panels, digital panels at bus shelters and stand-alone digital kiosks. Bidders should demonstrate their ability to adapt to an ever-evolving media landscape and include relevant examples from other markets wherein the bidder was involved in the creation or execution of new advertising platforms.

The following links can be used for route information.

Web Site – gpmetro.org

Transit Guide and Maps- <https://gpmetro.org/35/Maps-Schedules>

Real time map and bus tracker – <http://smttracker.com>

Advertising on buses servicing the USM route will be limited to interior only. A table of buses expected to be available for advertising is shown in **Attachment 4**.

SCOPE OF SERVICES

The successful Advertising Contractor will be expected to become knowledgeable about METRO and transit services it provides in order to promote and sell advertising on behalf of METRO. Services include overall management of advertising sales, coordination and placement of advertising, maintenance of advertisements, customer relations, providing METRO with reports on activity and financial status, other work necessary to comply with the requirements contained in these Specifications.

Contractor would also suggest to METRO any new and creative ideas to maximize advertising revenue as they may arise.

METRO Board of Directors has established an Advertising Policy (see **Attachment 1**) that governs third party advertising on METRO assets. METRO anticipates a five (5) year agreement term with options for two (2) additional one (1) year terms.

GENERAL SPECIFICATIONS

METRO fleet is located and operated out of its location at 114 Valley Street, Portland, Maine. If awarded to a new firm, coordination of a transition will be required. Advertising sales secured and installed by the current vendor will be responsible for the revenue sharing and removal of product already sold. References in this RFP to “revenue sharing” will assume *net collected revenue*.

Generally, proposer will be responsible for duties that include:

1. Solicit and procure advertisers for available advertising space on METRO assets, including production of all sales pieces;
2. Account management, including billing and collections;
3. Production, supply, installation and maintenance of advertisements;
4. Removal of advertising and restoration of assets;
5. Monthly reporting of advertising activity and revenue production by asset type;

Fixed Route Fleet.

1. Exterior Advertising: METRO’s current fleet size is 44 vehicles, with 23 of those being available for advertising. Due to mechanical issues, road accidents and general aging of the fleet, the use of specific vehicles in the fleet may fluctuate from time to time. Space availability for advertising on METRO vehicles may change during the term of this contract for various reasons, including the acquisition of new vehicles as described above, the retiring of old vehicles or new bus designs or configurations which do not allow for exterior advertising capability.
2. Interior Advertising: All buses are available for interior advertising either through physical advertising or digital screens. METRO is interested in proposals that include on-board digital advertising.

Shelters. METRO currently has 31 shelters in various locations along its regular service routes (excluding express service routes), which accept advertising. Shelters shown as “older” size may vary as to the size of advertising space and will have to be field verified by the successful vendor. Space availability for advertising on METRO shelters may change during the term of this contract for various reasons, including the installation of new shelters as described above, or due to visibility requirements. METRO will inform the advertising contractor of any new installations as they occur.

METRO reserves the right to use any unsold bus or shelter advertising space for its own use for any advertising or promotion. Production of any advertising materials for this purpose is the will be paid by METRO, but placement and maintenance will be done by the Advertising Contractor.

The Contractor shall employ its best efforts to develop and make sales of advertising space and shall operate a fully staffed business office, including an experienced ad sales force who understands the local METRO service area market and has the capability of acquiring national advertising accounts. Contractor shall also provide a facility and work force capable of insuring proper installation, maintenance and removal of advertising displays. Contractor shall comply with generally accepted industry standards and all applicable laws and regulations including truth in advertising, copyrights and trademarks, as well as the METRO Board Advertising Policy.

A. SPECIFIC REQUIREMENTS

1. Placement of Advertisement

Buses. Advertising will be permitted on exterior and interior of buses. Prior to the initial installation of exterior vinyl advertisements, METRO will approve the exact location for placement of an advertisement on each type of bus. These locations will become the standard locations for placement of ads on buses within the fleet. Once a vinyl is applied to the side of a vehicle, a vinyl advertisement in good repair of the same size must always be displayed in the same location. No "layering" of vinyl advertisements is permitted; the previous vinyl must be removed before application of new vinyl.

No vinyl will be allowed to interfere with any safety devices, lights, signals, or distinctive logos on vehicles. This includes, but is not limited to, reflective materials, side directional lights, side reflectors and other features. In addition, vinyl cannot interfere with the normal utilization of fuel doors, vents, glazing, and other equipment installed in the various vehicles that may require regular preventive maintenance.

Vinyl shall not be placed over any body moldings. Vinyl applied over body panel seams shall be sliced and tucked into those seams. Vinyl smaller than the allocated area shall be centered in the allocated area.

Shelters. Advertising will be permitted in designated areas of shelters only, and will be installed in holders available for that purpose. Primarily, advertisements will be located on the ends of shelters, but may vary by location so as not to interfere with visibility to the inside of the shelter.

2. **Material and Appearance of Advertisement.** All exterior bus advertising installed as part of the proposal be of the non-permanent adhesive vinyl type, "direct application", such as 3M, FlexCon or other approved material. Frames are not allowed on METRO buses. The Contractor shall assure that all exterior advertisements are manufactured, installed, and removed in accordance with current industry standards. Each ad shall be applied using methods to ensure it is free from wrinkles, blisters or similar defects. Each ad shall be "squared" to the vehicle contour lines and shall present a sharp and clear appearance.

The advertising contractor will be required to inspect all bus exterior, interior and shelter posted advertising on a regular interval to ensure print material is in good shape and copy and art are up to date and relevant.

3. **Dimensions of Advertisement.** In no case shall the dimensions of any exterior advertising material exceed dimensions that interfere with safe bus operation. METRO shall be the sole judge of such matters of safety, convenience, appearance, and the number and location of vinyl on any vehicles.

4. **Restoration of Bus Exterior.** Upon removal of vinyl advertisement, Contractor will be responsible for the cost of restoring the exterior surface of the bus covered by the vinyl advertisements to the condition of the surrounding exterior surface of the bus. The adhesive used to apply the vinyl type advertisement shall not cause damage to vehicles, their paint schemes or exterior surface.
5. **Fleet Size of Buses.** Sole discretion for assignment of buses shall remain with METRO. Any reference in this document to any particular number or count of buses shall not be construed to carry any guarantee, expressed or implied, that any certain count of vehicles or fleet size shall be available to the Contractor for advertising displays at any given time.
6. **No Route Specific Advertisements.** Under no circumstances should advertisements be route specific and the Contractor shall not represent to potential advertisers that advertising can be route specific.
7. **Self-Promotion.** The Contractor will not be allowed to engage in unpaid self-promotion without prior written approval from Contract Administrator.
8. **Maintenance of Advertisement.** The condition of advertising placed on METRO buses and shelters is a reflection of METRO, and is expected to be kept in good shape. Contractor is responsible for all maintenance, cleaning, repair or replacement that ensures the advertising material installed on vehicles is in good conditions at all times. Any vehicle bearing a vinyl that is damaged, defaced or marked with graffiti shall be considered unsuitable for revenue service and must be corrected. Repair or replacement of vinyl advertising damaged by vehicle accidents will be paid for by METRO.

Contractor shall remove unapproved, damaged or defaced advertising material within 24 hours of notice. All dated advertising materials must be removed within five (5) calendar days from its expiration date. Dated Materials refers to advertising materials that are relevant to a specific time period or relevant to an event that has been completed.

B. ADVERTISING POLICY AND REVIEW OF CONTENT

METRO Board of Directors **Attachment 1** is its Policy with regards to limitations of advertisement. Contractor is responsible for review of each advertisement submitted for display on METRO property to ensure it conforms to this policy. Any non-conforming advertising will not be installed by the Contractor.

Proposed advertising content that raises questions or is not easily determined by the Contractor to conform with the Policy will need to be reviewed with the METRO General Manager, who will issue a final determination in writing to the Contractor.

C. ACCESS TO BUSES AND SHELTERS

Contractor shall conduct all of its work on buses at times that do not interfere with METRO operations when installing, removing or maintaining ads. Indoor work space will be available. In general installations will be done between weekday hours of 4:00 p.m. and 12:00 p.m., on Saturdays between 6:00 a.m. and 12:00 a.m., and Sundays between 8:00 a.m. and 8:00 p.m. Installations will be coordinated with the Maintenance Manager. Contractor employees shall hold company identification badges to be worn at all times while working on METRO buses and shelters.

Contractor will provide all necessary parts, equipment, materials and/or tools required to perform the required work and will not store any parts, equipment materials and/or tools at METRO.

Contractor shall perform the work in such a manner as to eliminate unnecessary noise, obstruction, hazardous conditions or other disturbances to METRO normal operation, and also to the public at shelter locations. During the performance of the work, the Contractor shall be responsible for the protection and safety of the public, METRO personnel, equipment and facilities. During the performance of this work, Contractor shall keep the working area in a neat and safe condition, and adhere to all applicable state and federal work safety requirements. Contractor shall dispose of any waste generated by its work under this Contract.

D. WARRANTY

Contractor has responsibility for all of the materials and services provided under this Contract, and warrants that all products and/or processes utilized in production, installation, maintenance, repair and removal of all advertisements during the term of the Contract will be free from defects and shall not damage any METRO vehicles or shelters. This includes any work or materials provided by a subcontractor.

E. RECORDS AND REPORTING OF REVENUE

Contractor agrees to keep complete, accurate and up to date records of all advertising business and contracts related to its work for METRO under this Agreement and to provide that information to METRO in support of revenue expectations and revenue sharing payments. METRO shall have the right to audit, either conducted by METRO staff or by a third party, Contractor's books and accounts relevant to this Agreement. Contractor agrees to make all appropriate books, records, and accounts, including records maintained for payments made to METRO, available. Contractor must maintain and preserve all appropriate books, records, accounts generated during the entire term of this Agreement for the entire term of the Agreement plus four (4) years following expiration or termination of this Agreement.

F. PROPSAL REQUIREMENTS

1. Background and resumes of key staff that will be working on this contract and who will be contacts for METRO.
2. Describe firm qualifications, experience and success with transit advertising, and familiarity with the Portland regional market.
3. Describe sales approach and how your firm secures and keeps advertising clients. Describe how your firm works to maximize advertising revenue for its clients.

4. Give examples of innovative ideas for transit advertising that your firm has initiated, and the results.
5. Describe the warranty and quality control program for maintaining placed advertising.
6. Explain reporting of activity, including frequency and any online tools for clients, and payment process.
7. Provide references from current transit customers.
8. Evidence of financial capacity, in the form of a reference from the firm's depository bank, and at least two supplier references.
9. Revenue proposal
 - Provide rates for all exterior and interior bus advertising
 - Provide rates for shelter advertising
 - Annual contractual revenue minimums and/or profit-sharing structures
10. All required signatures and certifications.

G. SELECTION PROCESS AND CRITERIA

Proposals will be evaluated by a Selection Committee using the following selection criteria, which may include interviews with some or all proposers. The Committee may perform preliminary scoring of proposals and choose to interview the top scoring company or companies, after which a final scoring will be made. Award will be made to the Proposer who best meets the requirements and offers the proposal that METRO determines to be in its best interest. The selected firm will enter into a contract with METRO according to this RFP and proposal.

Proposed Revenue – 40 Points

Potential net revenue for METRO. This will include one or more scorings, depending on which revenue proposals are offered.

Experience and Qualifications – 25 Points

Proposal will be evaluated on proven experience in the Portland regional market, service provided to similar organizations, and personnel qualifications. Overall sales approach and. Ability to achieve projected revenue levels. Financial capacity to undertake and complete this contract.

Revenue Enhancement Ideas – 15 Points

Recommendations for increasing revenue, including opportunities through use of technology.

Completeness of Proposal – 10 Points

Proposals should be comprehensive and address all areas of this RFP. They should also include any required signatures and signed certifications. Proposals are expected to be organized and offer clear and understandable information that allows for evaluation of the proposal.

Maintenance of Advertising – 10 Points

Bidders should explain their approach to auditing inventory to ensure quality, up to date content.

ATTCHMENTS:

- 1 - Metro Board Advertising Policy***
- 2 - List of shelters***
- 3 - Passenger boardings history***
- 4 - List of buses***

PROPOSAL

COMPLETE AND RETURN THIS PAGE

The UNDERSIGNED hereby declares that he, she or they are the only person(s), firm or corporation interested in this proposal as principal; that it is made without any connection with any other person(s), firm or corporation submitting a bid for the same.

The UNDERSIGNED hereby declares that they have read and understand all conditions as outlined herein, and that the proposal is made in accordance with same.

The UNDERSIGNED hereby declares that any person(s) employed by METRO, Maine, who has direct or indirect personal or financial interest in this proposal, or in any profits which may be derived therefrom has been identified and the interest disclosed by separate attachment. Please include in your disclosure any interest which you know of.

This Proposal acknowledges the receipt of Addenda No.: _____

COMPANY NAME: _____
(Individual, Partnership, Corporation, Joint Venture)

AUTHORIZED SIGNATURE: _____ DATE: _____
(Officer, Auth. Individual, Owner)

PRINT NAME & TITLE: _____

ADDRESS: _____

_____ ZIP CODE

TELEPHONE: _____ FAX: _____

FEDERAL TAX I.D. NUMBER: _____

NOTE: All proposals must bear the handwritten signature of a duly authorized member or employee of the organization making the proposal.

PLEASE FILL IN THE FOLLOWING INFORMATION FOR ANY SUB-CONTRACTED WORK FOR THIS CONTRACT

	Name of Contractor	Service or Trade	Expected \$ Value	DBE? Y/N
1	_____	_____	_____	_____
2	_____	_____	_____	_____
3	_____	_____	_____	_____

COMPLETE AND RETURN THIS PAGE

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
OTHER INELIGIBILITY, AND INVOLUNTARY EXCLUSION**

The Respondent, _____, certifies, by submission of this proposal, that neither it nor its principals or subcontractors is presently debarred, suspended, proposed for debarment, declared ineligible, or involuntarily excluded from participation in this transaction by any Federal Department or Agency.

The Respondent agrees to comply with the requirements of 2 CFR Part 180, Subpart C, as adopted and supplemented by U.S. DOT regulations at 2 CFR Part 1200, while this Request for Proposals (“RFP”) is pending and throughout the period of any contract that may arise from this RFP. The Respondent further agrees that it and its affected subcontractors will provide immediate written notice to Greater Portland Transit District (“METRO”) if at any time the Respondent learns that his/her subcontractor’s certification was erroneous when submitted or has become erroneous because of changed circumstances.

By submitting this proposal and affixing a signature below, the Respondent certifies that the above statement is a material representation of fact upon which reliance is placed by METRO. If it is later determined that the Respondent knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, METRO may terminate this transaction for cause of default.

If the Respondent is unable to certify to any of the statements in this certification, the Respondent shall attach an explanation to this certification.

The Respondent certifies or affirms the truthfulness and accuracy of the contents of the statement submitted on or with this certification and understands that the provisions of 31 U.S.C. §§ 3801-3812 are applicable thereto.

Signature of Authorized Official

Date

Printed Name of Authorized Official

Company Name

COMPLETE AND RETURN THIS PAGE

**CERTIFICATION OF RESTRICTIONS ON LOBBYING
49 CFR PART 20**

The Contractor certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]
3. The undersigned shall include **the language of this certification in** the award documents for **all subcontracts**, that shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and any disclosure, and also certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any.

Signature of Authorized Official

Date

Printed Name of Authorized Official

ATTACHMENT 1

METRO Advertising Policy

Greater Portland Transit District (“METRO”) has the unqualified right to display, on or in its facilities, advertisements and notices that pertain to METRO operations and promotions consistent with the provisions of its agreement with the Advertising Contractor. METRO reserves the right, in all circumstances, to require that that advertisements on or in its facilities includes a disclaimer indicating that it is not sponsored by, and does not reflect the view of METRO.

Article I. Advertising Standards

- A. Greater Portland Transit District buses, vans, shelters, bus stops and transit facilities constitute nonpublic forms that are subject to the viewpoint-neutral restrictions set forth below. Certain forms of paid and unpaid advertising will not be permitted for placement or display on or in METRO facilities.
- B. Greater Portland Transit District shall not display or maintain any advertisement that falls within one or more of the following categories:
 - a. **Demeaning or disparaging.** The advertisement contains material that demeans or disparages an individual or group of individuals as determined by METRO.
 - b. **Tobacco.** The advertisement promotes the sale or use of tobacco or tobacco-related products, including depicting such products.
 - c. **Profanity.** The advertisement contains profane language.
 - d. **Firearms.** The advertisement contains an image of a firearm anywhere in the overall advertisement.
 - e. **Violence.** The advertisement contains an image or description of graphic violence, including but not limited to (1) the depiction of human or animal bodies or body parts, or fetuses, in states of mutilation, dismemberment, decomposition, or disfigurement, and (2) the depiction of weapons or other implements or devices used in the advertisement in an act or acts of violence or harm on a person or animal.
 - f. **Unlawful good or services.** The advertisements, or any material contained in it, promotes or encourages, or appears to promote or encourage, the use or possession of unlawful or illegal goods or services as determined by Greater Portland Transit District METRO.
 - g. **Unlawful conduct.** The advertisement, or any material contained in it, promotes or encourages, or appears to promote or encourage, unlawful or illegal behavior or activities as determined by METRO.

- h. **Obscenity or nudity.** The advertisement contains obscene material or images of nudity.
 - i. **Prurient sexual suggestiveness.** The advertisement contains material that describes, depicts, or represents sexual activities or aspects of the human anatomy in a way that the average adult, applying contemporary community standards would find appeals to the prurient interest of minors or adults in sex.
 - j. **Endorsement.** The advertisement or any material contained in it, implies or declares an endorsement by METRO of any service, product or point of view, without prior written authorization of METRO (through its Administrator).
 - k. **False, misleading, or deceptive commercial speech.** The advertisement proposes a commercial transaction, and the advertisement, or any material contained in it, is false, misleading or deceptive as determined by METRO.
 - l. **Libelous speech, copyright infringement, etc.** The advertisement, or any material contained in it, is libelous or an infringement of copyright as determined by Greater Portland Transit District, or is otherwise unlawful or illegal or likely to subject METRO to litigation.
 - m. **“Adult” – oriented goods or services.** The advertisement promotes or encourages, or appears to promote or encourage, a transaction related to, or uses brand names, trademarks, slogans or other materials which are identifiable with films rated “X” or “NC- 17,” adult book stores, adult video stores, nude dance clubs and other adult entertainment establishments, adult telephone services, adult Internet sites, and escort services.
- C. **Review of advertisement.** The Advertising Contractor shall review each advertisement submitted for display or in METRO facilities to determine whether the advertisement falls within, or may fall within, one or more of the categories set forth in (B) above. If the Advertising Contractor determines that ad advertisement falls within may fall within, one or more of the categories set for in (B) above, then:
- a. **Referral to Contract Administrator.** The Advertising Contractor shall promptly send the advertisement – along with the name of the advertiser, the size and number of the advertisements, and the dates and locations of the display – to the Contract Administrator for review of the advertisement by METRO.
 - b. **Initial Review by METRO.** Upon the Contract Administrator’s receipt of the advertisement and supporting information, the Contract Administrator shall review the advertisement and supporting information to determine whether the advertisement falls within one or more of the categories set forth in (B) above. In reaching this determination, the Contract Administrator may consider any materials submitted by the advertiser and may consult with the Advertiser Contractor. In the event that the Contract Administrator determines that advertisement does not fall within any of the categories set forth in (B) above, the Contract Administrator shall advise the Advertising Contractor that the advertisement is in conformity with METRO’s Advertising Guidelines.
 - c. **Final Review by METRO.** In the event that the Contract Administrator determines

that the advertisement falls within, or may fall within one or more of the categories set forth in (B) above, then the Contract Administrator shall, in writing, specify which of the categories the advertisement falls within or may fall within, and shall refer the advertisement and supporting information to the METRO administrator. Likewise, the METRO Administrator shall review the advertisement and supporting information to determine whether the advertisement falls within one or more of the categories set forth in (B) above. In reaching this determination, the Administrator may consider any materials submitted by the advertiser and may consult with the Contract Administrator and General Counsel. In the event that the METRO Administrator determines that the advertisement does not fall within one or more of the categories set for in (B) above, the Contract Administrator shall advise the Advertising Contractor that advertising is in conformity with METRO's Advertising Guidelines. In the event that the Administrator determines that the advertisement falls within one or more of the categories set for in (B) above, then the METRO Administrator shall, in writing specify which of the categories the a advertisement falls within and the Contract Administrator shall advise the Advertising Contractor that METRO has determined that the advertisement is not in conformity with its Advertising Guidelines. The determination of the METRO Administrator shall be final.

- d. **Opportunity for Revision by Advertiser.** In the event that the METRO Administrator determines that the advertisement falls within one or more of the categories set for in (B) above, the Advertising Contractor may, in consultation with the Contract Administrator, discuss with the advertiser one or more revisions to the advertisement, which if undertaken, would bring the advertisement into conformity with METRO's Advertising Guidelines. The advertiser shall then have the option of submitting a revised advertisement for review by METRO.

- e. **Removal of Non-Complying Advertisements.** Notwithstanding the foregoing, if the Contract Administrator determines at any time that an advertisement already accepted for display by the Advertising Contractor falls within one or more of the categories set forth in (B) above, he/she shall (1) in writing, specify which of the categories the advertisement falls within, (2) notify the advertiser Administrator determined that the advertisement is not in conformity with its Advertising Guidelines and that the advertisement shall be promptly removed and (3) instruct the Advertising Contractor to remove the advertisement. Upon such instruction, the Advertising Contractor shall promptly remove the advertisement, shall provide the advertiser with a copy of these Guidelines, and may, with the Contract Administrator, discuss with the advertiser revisions to the advertisement which, if undertaken, would bring the advertisement into conformity with METRO Advertising Guidelines. The advertiser shall then have the option of submitting a revised advertisement for review by METRO. In the event that METRO and the advertiser do not reach agreement with regard to a revision of the advertisement, the METRO Administrator will issue a final written notice of its decision, which shall then be relayed to the advertiser. The METRO Administrator's determination shall be final.

- D. Public Service Announcements.** METRO may, from time to time, make unsold advertising space available for public service announcements proposed by non-profit corporations that are exempt from taxation under Section 501 (c) (3) of the Internal Revenue Code or by federal, state, or local government agencies or subdivisions thereof. Each such non-profit corporation shall provide the Advertising Contractor or METRO with documentation demonstrating that it currently qualifies for non-profit status under the above-referenced provision of the Internal Revenue Code. A public service announcement shall not contain a message that is retail or commercial in nature and shall comply with the Advertising Standards set forth in these Guidelines. A public service announcement may be required to bear the following legend if the sponsor is not readily or easily identifiable from the content or copy of the proposed advertisement: “This message is sponsored by _____.”

Article II Distribution of Revenue from Advertising

A. Revenue Disbursement

Revenue from bus advertising is part of the District’s operating budget. Net revenue derived from bus shelter and/or bus stop advertising within a membership municipality is used as an offset to a membership municipality subsidy to the District.

Board Approved January, 2012

ATTACHMENT 2

Metro Bus Shelters								
Available for Advertising								
October 31, 2018								
City/Town	On Street	Cross Street	Direction	Landmark	Location		Manufacturer	Size
					X Coordinate	Y Coordinate		
Freeport	Route 1	554 Route 1	IB	Maine Beer Co.	-70.121698	43.839959	Duogard	5' x 9'
Portland	North	Eastern Promenade	IB	East End School	-70.253955	43.671161	Duogard	Older
Portland	Congress	Elm/Temple	OB	Key Bank	-70.258278	43.657989	Duogard	4.5' x 12'
Portland	Congress	Casco	OB	511 State St	-70.260873	43.656208	Duogard	4.5' x 12'
Portland	Congress	Forest	OB	Empire	-70.262372	43.654801	Duogard	4.5' x 12'
Portland	Congress	Forest	IB	Starbuck's	-70.262571	43.654417	Duogard	4.5' x 12'
Portland	State	Gray	IB	100 State St	-70.263206	43.650935	Duogard	Older
Portland	Congress	Park	IB	La Fayette Hotel	-70.265060	43.653317	Duogard	4.5' x 12'
Portland	Portland	Forest	OB	Post Office	-70.266012	43.657819	Duogard	Older
Portland	Bedford	Durham	IB	USM	-70.274534	43.662147	Duogard	5' x 9'
Portland	Bedford	Durham	OB (3)	USM	-70.274676	43.662194	Duogard	5' x 12'
Portland	Bramhall	Bracket	IB	Maine Medical	-70.274963	43.652467	Duogard	Older
Portland	Park	189 Park Ave	OB	IRIS Network	-70.275380	43.656123	Duogard	Older
Portland	Washington	Northport Dr	IB	Northport Church	-70.287464	43.698848	Duogard	5' x 9'
Portland	Allen	Washington	IB	Bangor Savings	-70.288869	43.699036	Duogard	Older
Portland	Auburn	Northgate	IB	Bath Savings	-70.289162	43.701825	Duogard	5' x 9'
Portland	Auburn	260 Auburn St	IB	North Deering Gardens	-70.290944	43.709376	Duogard	Older
Portland	Thompsons	Point	OB	PTC	-70.291557	43.654145	Duogard	Older
Portland	Allen	196 Allen Ave	IB	Casco Bay HS	-70.292104	43.694762	Duogard	5' x 12'
Portland	Stevens	824 Stevens Ave	IB	Shalom House	-70.293487	43.686735	Duogard	4.5' x 12'
Portland	Stevens	Orkney	OB	Deering HS	-70.294980	43.671561	Duogard	5' x 9'
Portland	Stevens	Ludlow	IB	Deering HS	-70.295114	43.670945	Duogard	5' x 12'
Portland	Congress	Stevens	IB	Westgate	-70.296044	43.658798	Duogard	Older
Portland	Forest	1494 Forest Ave	IB	Forest Glen	-70.303820	43.695028	Duogard	Older
South Portland	Jetport	151 Jetport Blvd	OB	DHHS	-70.309773	43.647469	Tolar	5' x 12'
Portland	Brighton	1124 Brighton	IB	Barron Center	-70.325771	43.676028	Duogard	Older
Westbrook	Main	Liza Harmon	IB	Taco Bell	-70.335904	43.678045	Duogard	5' x 9'
Westbrook	Spring	Landing Rd	OB	Blue Spruce	-70.358794	43.666033	Duogard	5' x 9'
Westbrook	Spring	Blue Spruce Farm	IB	Blue Spruce	-70.358981	43.665801	Duogard	5' x 9'
Westbrook	Mechanic	Main	OB	DT Westbrook	-70.368711	43.676801	Duogard	5' x 12'

ATTACHMENT 3

Greater Portland Transit District						
Annual Boardings						
Regular Service				Express Service (began July, 2016)		
	2016	2017	2018	2016	2017	2018
Jan	139,083	149,465	135,243		1,740	3,719
Feb	135,622	128,029	133,533		1,269	3,836
Mar	155,135	161,283	148,605		1,841	4,429
Apr	147,428	144,775	140,201		1,734	4,530
May	156,591	166,269	155,304		2,137	5,647
Jun	156,137	163,434	146,924		2,288	4,877
Jul	134,951	137,427	133,637	1,351	2,275	4,737
Aug	148,775	148,077	144,637	1,764	3,002	5,537
Sep	162,973	160,234	174,774	1,970	5,145	5,378
Oct	159,269	159,778		2,048	5,478	
Nov	158,609	145,800		1,964	4,467	
Dec	145,648	130,087		1,507	3,566	
Total	1,800,221	1,794,658	1,312,858	10,604	34,942	42,690
Total	1,810,825	1,829,600	1,355,548			

ATTACHMENT 4

GREATER PORTLAND TRANSIT DISTRICT									
5 YEAR FLEET BRANDING/ADVERTISING									
Oct-18									
					2019	2020	2021	2022	2023
Vehicle Class/Type	Manufacturer	Fuel Type	Prod. Year	Size	Qty	Qty	Qty	Qty	Qty
Large Heavy Duty	Gillig	Diesel	2004	35 ft	4	0	0	0	0
Large Heavy Duty	Orion	CNG	2005	35 ft	7	0	0	0	0
Large Heavy Duty	Gillig	Diesel	2011	35 ft	7	7	7	7	7
Large Heavy Duty	Gillig	CNG	2014	35 ft	5	5	5	5	5
Mid-size Medium	Arboc	Diesel	2016	26 ft	3	3	3	3	3
Mid-size Medium	Arboc	Diesel	2017	26 ft	1	1	1	1	1
Large Heavy Duty	New Flyer	CNG	2018	40 ft	5	5	5	5	5
Large Heavy Duty	New Flyer	Diesel	2018	40 ft	6	6	6	6	6
Large Heavy Duty	New Flyer	Diesel	2019	40 ft	6	6	6	6	6
Large Heavy Duty	New Flyer	Diesel	2020	40 ft	0	7	7	7	7
Large Heavy Duty	Proterra	BEB	2020	35 ft	0	4	4	4	4
TOTAL FLEET					44	44	44	44	44
# Buses Available for Advertising					23	18	18	18	18

APPENDIX A

FTA THIRD PARTY CONTRACTING REQUIREMENTS

- A. Federal Requirements; Changes Thereto.** Contractor shall at all times comply with Federal Transit Administration (“FTA”) Circular 4220.1F, as may be amended from time to time, and all applicable FTA regulations, policies, procedures, and directives, including without limitation those listed directly or by reference in any grant agreement between FTA and METRO and any standard terms and conditions attached thereto (“Grant Agreement”), as they may be amended or promulgated from time to time during the term of this contract. Contractor’s failure to so comply shall constitute a material breach of this contract. Anything to the contrary herein notwithstanding, all FTA mandated terms and conditions set forth in FTA Circular 4220.1F, as may be amended from time to time, and the Grant Agreement shall be deemed to control in the event of a conflict with other provisions contained in this contract. Contractor shall not perform any act, fail to perform any act, or refuse to comply with METRO requests which would cause METRO to be in violation of any FTA terms and conditions. Contractor agrees to include this contract term, as modified to apply to each subcontractor, in each subcontract issued pursuant to this contract.
- B. No Federal Government Obligations to Third Parties.** Contractor acknowledges and agrees that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the Grant Agreement, absent the Federal Government’s express written consent, the Federal Government shall not be subject to any obligations or liabilities to Contractor or any other person or entity that is not a party to the Grant Agreement. Contractor agrees to include this contract term, as modified to apply to each subcontractor, in each subcontract issued pursuant to this contract.
- C. Conflict of Interest.** By entering into this contract with METRO to perform or provide work, services, or materials, Contractor has thereby covenanted that it has no direct or indirect pecuniary or proprietary interest, and that it shall not acquire any interest, which conflicts in any manner or degree with the work, services, or materials required to be performed and/or provided under this contract and that it shall not employ any person or agent having any such interest. In the event that Contractor or its agents, employees, or representatives hereafter acquires such a conflict of interest, it shall immediately disclose such interest to METRO and take action immediately to eliminate the conflict or to withdraw from this contract, as METRO may require.
- D. False or Fraudulent Statements or Claims.**
1. Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801-3812, and U.S. Department of Transportation (“DOT”) regulations, “Program Fraud Civil Remedies,” 49 CFR Part 31, apply to Contractor’s activities in connection with this Project. Contractor certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make in connection with the Grant Agreement or the project for which the contract work is being performed. In addition to other penalties that may apply, Contractor also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government, the Federal Government reserves

the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, to the extent the Federal Government deems appropriate.

2. Contractor further acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government or includes a false, fictitious, or fraudulent statement or representation in any agreement with the Federal Government in connection with this project or any other Federal law, the Federal Government reserves the right to impose on Contractor the penalties of 49 U.S.C. § 5323(l), 18 U.S.C. § 1001, or other applicable Federal law to the extent the Federal Government deems appropriate.
3. Contractor agrees to include these contract terms, as modified to apply to each subcontractor, in each subcontract issued pursuant to this contract.

E. Access to Records. Contractor agrees to:

1. Provide to METRO, the FTA Administrator, the U.S. Secretary of Transportation, and the U.S. Comptroller General or their duly authorized representatives access to all records to the extent required by 49 U.S.C. § 5325(g). Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed;
2. Maintain all books, records, accounts, and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract except in the event of litigation or settlement of claims arising from the performance of this contract. In such case, Contractor agrees to maintain same until METRO, the FTA Administrator, the U.S. Secretary of Transportation, and the U.S. Comptroller General or their duly authorized representatives have disposed of all such litigation, appeals, claims, or exceptions related thereto, or until the end of the regular three-year period, whichever is later, pursuant to 49 CFR Part 18.42.
3. Comply with all applicable State of Maine record retention requirements and applicable provisions of the Maine Freedom of Access Law, 1 M.R.S.A. § 401, *et seq.*
4. Include these contract terms, as modified to apply to each subcontractor, in each subcontract issued pursuant to this contract.

F. Civil Rights. Contractor agrees to comply with all applicable civil rights laws and implementing regulations including, but not limited to, the following:

1. Nondiscrimination in Federal Public Transportation Programs. Contractor agrees to comply, and assures that each subcontractor will comply, with the provisions of 49 U.S.C. § 5332, which prohibits discrimination (including discrimination in employment or business opportunity), exclusion from participation in employment or business opportunity, or denial of program benefits in employment or business opportunity on the basis of race, color, creed, national origin, sex, disability, or age. Contractor further agrees to comply with FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration

Recipients,” as amended, to the extent consistent with applicable Federal laws, regulations, and guidance, and other applicable Federal guidance that may be issued.

2. Nondiscrimination—Title VI of the Civil Rights Act. Contractor agrees to, and assures that each subcontractor will, prohibit discrimination based on race, color, or national origin and comply with (i) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d *et seq.*, (ii) DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of Civil Rights Act,” 49 CFR Part 21, (iii) U.S. Department of Justice (“DOJ”), “Guidelines for the enforcement of Title VI, Civil Rights Act of 1964,” 28 CFR § 50.03, and (iv) all other applicable Federal guidance that may be issued.
3. Nondiscrimination on the Basis of Sex. Contractor agrees to comply, and assures that each subcontractor will comply, with Federal prohibitions against discrimination on the basis of sex, including (i) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 *et seq.*; (ii) DOT regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 CFR Part 25; and (iii) Federal transit law, specifically 49 U.S.C. § 5332.
4. Nondiscrimination on the Basis of Age. Contractor agrees to comply, and assures that each subcontractor will comply, with Federal prohibitions against discrimination on the basis of age, including (i) the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, which prohibits discrimination on the basis of age; (ii) U.S. Equal Employment Opportunity Commission (“EEOC”) regulations, “Age Discrimination in Employment Act,” 29 CFR Part 1625, which implements the Age Discrimination in Employment Act; (iii) the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 *et seq.*, which prohibits discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal funds; (iv) U.S. Health and Human Services regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 CFR Part 90, which implements the Age Discrimination Act of 1975, and (v) Federal transit law, specifically 49 U.S.C. § 5332.
5. Nondiscrimination on the Basis of Disability. Contractor agrees to comply, and assures that each subcontractor will comply, with the following Federal laws and regulations against discrimination on the basis of disability: (i) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities; (ii) the Americans with Disabilities Act of 1990 (“ADA”), as amended, 42 U.S.C. § 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; (iii) the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities; (iv) Federal transit law, specifically 49 U.S.C. § 5332, which includes disability as a prohibited basis for discrimination; (v) DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 CFR Part 37, “Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49

CFR Part 27, and “Transportation for Individuals with Disabilities: Passenger Vessels,” 49 CFR Part 39; (vi) Joint U.S. Architectural and Transportation Barriers Compliance Board (“ATBCB”) and DOT regulations, “Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 CFR Part 1192 and 49 CFR Part 38; (vii) DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 CFR Part 35, and “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 CFR Part 36; (viii) EEOC regulations, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 CFR Part 1630; (ix) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities,” 47 CFR Part 64, Subpart F; (x) ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 CFR Part 1194; (xi) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 CFR Part 609; and (xii) all other applicable laws and amendments pertaining to access for seniors or individuals with disabilities, and applicable Federal civil rights and nondiscrimination guidance.

6. **Equal Employment Opportunity.** Contractor agrees to, and assures that each subcontractor will, (i) prohibit discrimination on the basis of race, color, religion, sex, or national origin and comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*; (ii) facilitate compliance with Executive Order 11246, “Equal Employment Opportunity,” as amended by Executive Order 11375, “Amending Executive Order 11246, Relating to Equal Employment Opportunity,” 42 U.S.C. § 2000e note, and as further amended by Executive Order 13672, “Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity,” by ensuring that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their race, color, religion, national origin, disability, age, sexual origin, gender identity, or status as a parent; and (iii) comply with Federal guidance pertaining to Equal Employment Opportunity laws and regulations, and prohibitions against discrimination on the basis of disability. Contractor further agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor further agrees to comply with any implementing requirements that FTA may issue.
7. Contractor agrees to include these contract terms, as modified to apply to each subcontractor, in each subcontract issued pursuant to this contract.

G. Disadvantaged Business Enterprises. To the extent authorized by applicable Federal law and regulation, Contractor agrees to, and assures that each subcontractor will, facilitate participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as Disadvantaged Business Enterprises (“DBEs”), as follows:

1. Contractor agrees to comply with (i) Section 1101(b) of SAFTEA-LU, “Moving Ahead for Progress in the 21st Century” (MAP-21), 23 U.S.C. § 101; (ii) DOT regulations, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,” 49 CFR Part 26, and (iii) Federal transit law, specifically 49 U.S.C. § 5332.
2. Contractor will not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. Contractor agrees to carry out applicable requirements of 49 CFR Part 26 in the administration of this contract and the award and administration of any subcontract issued pursuant to this contract. Failure by Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as METRO deems appropriate, which may include, but is not limited to withholding monthly progress payments, assessing sanctions, liquidated damages, or disqualifying Contractor from future bidding as non-responsible.
3. Contractor agrees to include these contract terms, as modified to apply to each subcontractor, in each subcontract issued pursuant to this contract.

H. Small & Minority Businesses; Women’s Business Enterprises. Contractor agrees to take all necessary affirmative steps to assure that minority firms, women’s business enterprises, and labor surplus area firms are used when possible. Affirmative steps include: (i) placing qualified small & minority businesses and women’s business enterprises (“SMBWBEs”) on solicitation lists; (ii) assuring that SMBWBEs are solicited whenever they are potential sources; (iii) dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by SMBWBEs; (iv) establishing delivery schedules, where requirements permit, that encourage participation by SMBWBEs; and (v) using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce. Contractor agrees to include this contract term, as modified to apply to each subcontractor, in each subcontract issued pursuant to this contract.

I. Debarment and Suspension. This contract is a covered transaction for purposes of 49 CFR Part 29. Accordingly:

1. Contractor agrees to review, and assures that all subcontractors will review, the U.S. General Services Administration (“GSA”) “System for Award Management,” <https://www.sam.gov>, if required by DOT regulations, 2 CFR Part 1200, and the Excluded Parties Listing System at <http://epls.arnet.gov> before entering into any contracts. Contractor further agrees to and assures that all subcontractors will enter into no arrangement to participate in the development or implementation of this project with any party that is debarred or suspended, pursuant to DOT regulations, “Nonprocurement Suspension and Debarment,” 2 CFR Part 1200; U.S. Office of Management and Budget (“OMB”), “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 CFR Part 180, including any amendments thereto; Executive Orders Nos. 12549 and 12689, “Debarment and Suspension,” 31 U.S.C. § 6101 note; and other applicable Federal laws, regulations, or guidance regarding participation with debarred or suspended subcontractors. Contractor agrees to comply with said requirements throughout the period of this contract.

2. Contractor certifies that neither it nor its principals or subcontractors is presently debarred, suspended, proposed for debarment, declared ineligible, or involuntarily excluded from participation in this transaction by any Federal Department or Agency.
3. Contractor certifies that the above statement is a material representation of fact upon which reliance is placed by METRO. If it is later determined that Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, METRO may terminate this transaction for cause of default.
4. Contractor agrees to include these contract terms, as modified to apply to each subcontractor, in each subcontract issued pursuant to this contract.

J. Fair Labor Standards. Contractor agrees to comply, and assures that all subcontractors will comply, with the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, *et seq.*, to the extent that the FLSA applies to employees performing project work involving commerce, and as the Federal Government otherwise determines applicable.

K. Employee Protections—Wage and Hour Requirements. Contractor agrees to comply, and assures that all subcontractors will comply, with all applicable Federal laws and regulations providing wage and hour protections for nonconstruction employees, including (i) Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3702, and other relevant parts of that Act, 40 U.S.C. § 3701 *et seq.*, and U.S. Department of Labor (“DOL”) regulations, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to Contract Work Hours and Safety Standards Act,” 29 CFR Part 5. Accordingly, Contractor shall comply with the following contract terms and insert said terms in full in any contract or subcontract, if the contract or subcontract may require or involve the employment of laborers or mechanics and if it is not contemplated that the contract or subcontract will be a contract for supplies, materials, or articles ordinarily available in the open market or any other type of contract exempt from the Contract Work Hours and Safety Standards Act, pursuant to 40 U.S.C. § 3701(b):

1. Overtime Requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
2. Violation; Liability For Unpaid Wages; Liquidated Damages. In the event of any violation of the clause set forth in paragraph (1) of this section, the Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, Contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or

permitted to work in excess of the standard work week of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

3. **Withholding For Unpaid Wages And Liquidated Damages.** METRO shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
4. **Subcontracts.** Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

L. Energy Conservation. Contractor agrees to comply with the mandatory energy efficiency standards and policies within the applicable state energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. § 6321 *et seq.*

M. Environmental Protection. Contractor agrees to comply with all applicable requirements of the National Environmental Policy Act of 1969 (“NEPA”), as amended, 42 U.S.C. §§ 4321-4335, consistent with Executive Order No. 11514, as amended, “Protection and Enhancement of Environmental Quality,” 42 U.S.C. § 4321 note; FTA statutory requirements on environmental matters, 49 U.S.C. § 5324(b); Council on Environmental Quality regulations on compliance with NEPA, as amended, 40 CFR Part 1500 *et seq.*; joint Federal Highway Administration (“FHA”)-FTA regulations, “Environmental Impact and Related Procedures,” 23 CFR Part 771 and 49 CFR Part 622; and any other applicable State and Federal environmental laws and regulations.

N. Preference for Recycled Products. Contractor agrees to provide a competitive preference for products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and EPA “Comprehensive Procurement Guidelines for Products Containing Recovered Materials,” 40 CFR Part 247.

O. Lobbying Restrictions. The Contractor agrees to comply with 49 CFR Part 20, “New Restrictions on Lobbying,” imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995), which states that no Federal appropriated funds, received by the Contractor as part of this agreement, have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative

agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

This requirement extends to all subcontractors of this agreement, and the Contractor must include this language, and associated certification, in the award documents for all subcontracts. Certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of certification is a prerequisite for making or entering into this transaction. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

APPENDIX B

Contract Termination and Dispute Resolution Requirements

Opportunity to Cure.

METRO in its sole discretion may, in the case of a termination for breach or default, allow Contractor 30 days in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions. If Contractor fails to remedy to METRO's satisfaction the breach or default or any of the terms, covenants, or conditions of this contract within 10 days after receipt by Contractor of written notice from METRO setting forth the nature of said breach or default, METRO shall have the right to terminate the contract without any further obligation to Vendor. Any such termination for default shall not in any way operate to preclude METRO from also pursuing all available remedies against Contractor and its sureties for said breach or default.

Termination for Convenience. The METRO shall have the right to terminate this Agreement at any time for its convenience, in whole or from time to time in part, upon prior written Notice to CONTRACTOR. If Agreement is terminated by the METRO for convenience, the METRO shall pay the CONTRACTOR for any unpaid, unrecovered, or unrecoverable out-of-pocket costs for supplies, materials and/or services provided or amounts expended or incurred in reliance on this Agreement prior to the effective date of such notice.

After receipt of a notice of termination, and except as otherwise directed by the GM, Contractor shall:

- (i) stop work under the contract on the date and to the extent specified in the Notice of Termination;
- (ii) place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under the contract as is not terminated;
- (iii) terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;
- (iv) assign METRO, in the manner at the times, and to the extent directed by the GM, all of the rights, title, and interest of Contractor under the orders and subcontracts so terminated, in which case METRO shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- (v) settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the GM, to the extent he may require which approval or ratification shall be final for all the purposes of this clause;
- (vi) transfer title to METRO and deliver in the manner at the times and to the extent if any, directed by the GM the work in process, completed work, supplies, and other material produced as part of, or acquired in connection with the performance of the work terminated, and the completed or partially completed plans, information and other property which, if the contract had been completed, would have been required to be furnished to METRO;
- vii) complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and take such action as may be necessary, or as the GM may direct, for the protection or preservation of the property related to this contract, which is in the possession of Contractor and

in which METRO has or may acquire an interest.

Settlement of claims under this Termination for Convenience clause shall be in accordance with paragraphs (c) through (m) of the clause contained in the Federal Acquisition Regulation (FAR) Part 52, Subpart 52.249-2, except that wherever the word "Government" or "Contracting Officer" appears it shall be deleted and "METRO" shall be substituted in lieu thereof.

Dispute Resolution. Any dispute among the Parties arising out of or relating to this contract shall be resolved in accordance with this Section.

1. Negotiation. The Parties shall negotiate in good faith and attempt to resolve any dispute, controversy, or claim arising out of or relating to this contract ("Dispute") within 30 days after the date that a Party has given written notice of such Dispute to the other Party.
2. Arbitration. If the Dispute has not been resolved within 30 days, any Party may serve written notice on the other Party of a request for non-binding mediation. The mediation shall be conducted in Maine by a mediator mutually agreeable to the Parties, shall not exceed one full day or two half days in length, and shall be completed within 90 days from the date of receipt of notice of a request for mediation by the last Party to receive notice. In the event that the Parties are unable to agree on a mediator within 30 days, or to resolve the dispute through mediation within 90 days, the Parties reserve the right to file a civil action in a court of competent jurisdiction located in Cumberland County, Maine. This dispute resolution mechanism shall be binding upon the successors, assigns, foreclosing mortgagee, and any trustee or receiver of the Parties.
3. Performance During Dispute. Unless otherwise directed by METRO, Contractor shall continue performance under this contract while matters in dispute are being resolved.
4. Claims for Damages. Should either Party suffer injury or damage to person or property because of any act or omission of the Party or of any of his employees, agents, or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other Party within a reasonable time after the first observance of such injury of damage.
5. Rights and Remedies. The duties and obligations imposed by this contract and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law. No action or failure to act by METRO or Contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

FTA Vested Interest. The Parties acknowledge that FTA has a vested interest in the settlement of any dispute, breach, default, or litigation involving the project, and has the right to participate in any dispute resolution as it may choose to do.