

LIVERMORE AMADOR VALLEY TRANSIT AUTHORITY  
(LAVTA)

REQUEST FOR PROPOSALS

FOR

EXTERIOR ADVERTISING SALES

#2017-06

LIVERMORE AMADOR VALLEY TRANSIT AUTHORITY  
1362 Rutan Court, Suite 100  
Livermore, CA 94551

February 28, 2017

Key RFP Dates

<b>Date of Issuance:</b>	<b>February 28, 2017</b>
<b>Written Questions/Requests Due:</b>	<b>March 10, 2017 at 4:00 p.m.</b>
<b>Responses to Questions/Requests:</b>	<b>March 17, 2017</b>
<b>Proposals Due:</b>	<b>March 24, 2017 at 2:00 p.m.</b>
<b>Demonstrations and Presentations (estimated, if needed)</b>	<b>April 3-5, 2017</b>
<b>Contract Award (estimated):</b>	<b>May 1, 2017</b>
<b>Contract Execution (estimated):</b>	<b>May 8, 2017</b>

Contact Information:  
Christy Wegener, Director of Planning and Operations  
(925) 455-7555  
[info@lavta.org](mailto:info@lavta.org)

February 28, 2017

**SUBJECT: NOTICE OF REQUEST FOR PROPOSALS  
EXTERIOR ADVERTISING SALES #2017-06**

The Livermore Amador Valley Transit Authority (LAVTA), operator of the Wheels bus system, is accepting proposals from qualified firms to provide exterior bus side advertising services.

This Project shall include the furnishing of all labor and services as set forth in the Scope of Work section of the Request for Proposals (RFP).

All Questions and Requests for Clarification must be submitted in writing by March 10, 2017 at 4:00 p.m. Proposals must be received in the LAVTA Administrative Offices by 2:00 p.m. on March 24, 2017. **No proposals will be accepted after this time and date.** Any proposal or amendment to proposal received after the closing time will be returned unopened to the sender. No Proposer may withdraw its proposal for a period of one hundred twenty (120) days after the opening of proposals. Each Proposer will be notified of award of contract, if award is made. LAVTA reserves the right to reject any and all proposals, or to waive any irregularities or informalities in any proposal or in the proposal procedure, or to postpone the proposal opening for good cause.

Firms submitting a proposal to this RFP may be required to give a demonstration and presentation of their proposal to LAVTA from April 3-5 (estimated date). Engagement staff will be present at the presentation. LAVTA's request for a demonstration or presentation shall not constitute acceptance of a proposal.

Proposals shall be submitted to the following:

**Livermore Amador Valley Transit Authority  
1362 Rutan Court, Suite 100  
Livermore, CA 94551  
Attention: Christy Wegener, Director of Planning and Operations**

Full compliance with all Safety and Health Standards, Equal Employment Opportunity, and Americans with Disabilities Act laws and regulations will be required of the Proposer.

LAVTA intends for this procurement to be primarily conducted electronically via distribution on the procurement page of [www.wheelsbus.com](http://www.wheelsbus.com); however, upon request, copies of the RFP may be obtained by contacting LAVTA at (925) 455-7555.

*/s/ Christy Wegener*

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Beverly Adamo  
Director of Planning and Operations  
Livermore Amador Valley Transit Authority

February 28, 2017  
Date

SECTION I

INSTRUCTIONS TO PROPOSERS

## **1.0 INSTRUCTIONS TO PROPOSERS**

### **1.1 Examination of Proposal Documents**

The work to be performed under this contract consists of the furnishing of all labor, insurance, materials, and equipment necessary to perform the requirements specified in the Scope of Work. By submitting a proposal, Proposer represents that it has thoroughly examined and become familiar with the work required under this RFP and that it is capable of performing quality work to achieve the Livermore Amador Valley Transit Authority's ("Authority" or "LAVTA") objectives.

### **1.2 Addenda**

Any Authority changes to the requirements will be made by written addendum to this RFP. Any written addenda issued pertaining to this RFP shall be incorporated into the terms and conditions of any resulting Agreement. The Authority will not be bound to any modifications to or deviations from the requirements set forth in this RFP as the result of oral instructions. Proposers shall acknowledge receipt of addenda in their proposals.

### **1.3 Authority Contact**

All questions and/or contacts with LAVTA staff regarding this RFP are to be directed to the Procurement Officer:

Christy Wegener, Director of Planning and Operations  
Livermore Amador Valley Transit Authority  
1362 Rutan Court, Suite 100  
Livermore, CA 94551  
Phone: (925) 455-7563

### **1.4 Questions and Requests for Clarification**

Should a Proposer have questions concerning or require clarifications of this RFP, the Proposer shall notify the Authority in writing. Should it be found that the point in question is not clearly and fully set forth, the Authority will issue a written addendum clarifying the matter, which will be posted on the agency's interactive website; [www.wheelsbus.com](http://www.wheelsbus.com).

#### **Submitting Request**

- (a) All questions and/or requests for clarification must be put in writing and must be received by the Authority no later than 4:00 p.m. on March 10, 2017.

- (b) Requests for clarification, questions and comments must be clearly labeled, “Written Questions.” The Authority is not responsible for failure to respond to a request that has not been labeled as such.
- (c) Any of the following methods of delivering written questions are acceptable as long as the questions are received no later than the date and time specified above:
  - (1) U.S. Mail: Livermore Amador Valley Transit Authority, 1362 Rutan Court, Suite 100, Livermore, CA 94551.
  - (2) Personal Courier: Director of Planning and Operations, 1362 Rutan Court, Suite 100, Livermore, CA 94551.
  - (3) Facsimile: The Authority’s fax number is (925) 443-1375.
  - (4) E-Mail: [info@lavta.org](mailto:info@lavta.org)

### **1.6 Authority Responses**

Responses from the Authority will be posted on the Authority’s website, [www.wheelsbus.com](http://www.wheelsbus.com) by March 17, 2017. LAVTA reserves the right to postpone this deadline for its own convenience.

### **1.7 Submission of Proposals**

- (a) Date and Time - Proposals must be received by 4:00 p.m. on March 24, 2017. Proposals received after the above-specified date and time will be returned to Proposers unopened.
- (b) Address - Proposals shall be submitted to the following:

**Livermore Amador Valley Transit Authority  
1362 Rutan Court, Suite 100  
Livermore, CA 94551  
Attn: Christy Wegener, Director of Planning and Operations**

### **1.8 Identification of Proposals**

Proposer shall submit five (5) hard copy AND one (1) electronic version of its proposal on a CD or USB drive, addressed as shown above, bearing the Proposer’s name and address and clearly marked as follows:

**“LAVTA Exterior Advertising Sales – RFP #2017-06”**

### **1.9 Acceptance of Proposals**

- (a) The Authority reserves the right to accept or reject any and all proposals, or any item or part thereof, or to waive any informalities or irregularities in proposals or proposal procedures.
- (b) The Authority reserves the right to withdraw or cancel this RFP at any time without prior notice and the Authority makes no representations that any contract will be awarded to any Proposer responding to this RFP.
- (c) The Authority reserves the right to postpone proposal openings for its own convenience.
- (d) The Authority reserves the right to request additional information to clarify any proposal.

### **1.10 Pre-Contractual Expenses**

The Authority shall not, in any event, be liable for any pre-contractual expenses incurred by Proposer in the preparation of its proposal. Proposer shall not include any such expenses as part of its proposal.

Pre-contractual expenses are defined as expenses incurred by Proposer in:

1. Preparing its proposal in response to this RFP;
2. Submitting that proposal to the Authority;
3. Negotiating with the Authority on any matter related to this proposal; or
4. Any other expenses incurred by Proposer prior to date of award, if any of the Agreement.

### **1.11 Joint Offers**

Where two or more firms desire to submit a single proposal in response to this RFP, they should do so on a prime-subcontractor basis rather than as a joint venture. The Authority intends to contract with a single firm rather than with multiple firms doing business as a joint venture.

### **1.12 Protest Procedures**

Protests based upon the content of this Request for Proposals shall be filed in writing with Michael Tree, LAVTA Executive Director, within ten (10) calendar days after the Request for Proposals is first advertised. The protest must clearly specify in writing the grounds and evidence on which the protest is based. LAVTA shall issue a written decision on the protest prior to the opening of proposals. A protest may be renewed by refiling the protest within fifteen (15) calendar days after the mailing of the notice of the recommended award.

Any proposer may protest the recommended award on any ground not based upon the content of the Request for Proposals by filing a protest with Michael Tree, LAVTA Executive Director, within fifteen (15) calendar days after the mailing of the notice of the recommended award. The protest must clearly specify in writing the grounds and evidence on which the protest is based. Protesters shall have an opportunity to appear and be heard before the board prior to final award of the contract.

Copies of the complete proposal protest procedure are available at the office of the Authority.

### **1.13 Contract Type**

Following the satisfaction of all contractual requirements, the Contractor shall provide the services within the approved scope, schedule and price as set forth in the Agreement. (see Exhibit 1 - Sample Agreement).

SECTION II

SCOPE OF WORK



## SCOPE OF WORK

### EXTERIOR ADVERTISING SERVICES

#### 1. INTRODUCTION

##### 1.1. Request for Proposals

It is the intent of this Request for Proposal (RFP) to solicit proposals for the provision of revenue-generating Exterior Advertising Management and Sales for Transit Vehicles from an independent firm. This advertising consists of exterior spaces on LAVTA (WHEELS) vehicles used in revenue service. LAVTA expects the successful Proposer to administer all approved forms of advertising as well as all aspects of development, manufacturing, and installation of advertisements.

This proposal will allow LAVTA to receive revenues that will assist the agency to offset costs associated with the provision of public transit services. The successful Proposer will have a demonstrated record of creating new transit advertising clients through an assertive out-bound sales model that emphasizes local sales. They will also have a deployed national sales organization and a record of generating non-traditional revenue.

LAVTA will utilize the “Best Value” method of procurement, in conformance with applicable procurement guidelines. Respondents to this RFP should demonstrate an understanding of the work to be performed.

##### 1.2. Scope of Work

###### **Background**

LAVTA is seeking the services of an individual or firm to manage an Exterior Bus Side Advertising Program on its fleet of vehicles for initial three (3) year base term with two one-year options, exercisable by LAVTA in its sole discretion. Should LAVTA determine to exercise an option, LAVTA will notify the Contractor of its determination, in writing, at least ninety (90) days prior to the end of the base term or first option term, as applicable.

The LAVTA service area (referred to as the Tri-Valley) is situated in the eastern portion of Alameda County of the San Francisco Bay Area and includes the cities of Dublin, Livermore, and Pleasanton, and unincorporated areas of Alameda County. The area covers forty (40) square miles and is home to 200,000 residents. The Tri-Valley is known for its appeal as an employment center, its relatively high affluence level, and its general quality of life.

LAVTA projects operating the following in fiscal year 2017:

- 2.1 million total fixed route miles
- 1.65 million fixed route passengers

- 49 vehicles operating in peak service

LAVTA's operates local transit bus service operating in and around the cities of Livermore, Dublin, and Pleasanton and provides connections with BART, CCCTA (County Connection), and ACE Train. Service operates on local streets with occasional freeway/interstate use. In 2016, LAVTA launched a rebranding effort to consider a change to the Wheels name and/or logo. Accordingly, the Agency opted to only allow advertising on half of the fleet so that the new "Wheels" brand, when developed, would have high visibility in the service area. The Agency also determined that any ads would need to be below the window (i.e. no headliners, full/side wraps, etc.).

In summer 2016, Wi-Fi was installed on the Rapid and Express buses (28 buses total). In addition to exterior bus advertising, Wi-Fi sponsorship opportunities are available on select vehicles.

In spring 2017, LAVTA, in partnership with Air Quality Management District, will be fully wrapping seven (7) buses with Spare-the-Air advertising for three years. These seven buses are not available for advertising for the first three years of this contract; those buses may become available for advertising in 2020.

In summer 2017, LAVTA will be retiring a twenty-five buses and will be replacing them with a total of twenty (29' or 40') hybrid buses. Half of the new buses (ten) will be available for exterior advertising through this contract.

The composition of the existing and future fleet that is available for advertising, along with specific advertising types permitted by vehicle, is detailed in Exhibit 2.

### **Current Contract**

LAVTA's current exterior advertising contract is with Lamar Advertising Company. Lamar provides a full service advertising program as described in this RFP. In addition to the services described in the RFP, the current contractor provides a specified amount per year to design, produce, and install exterior advertising for LAVTA's promotional use and funds the Authority's community art bus shelter program.

### **General Information/Responsibility**

The Contractor will have exclusive rights and manage the sales and placement of advertising promotions on LAVTA's fixed route fleet of transit buses subject to the terms and conditions set forth in this RFP.

Responsibilities include management of a comprehensive sales & marketing process, encompassing client sales contracts, coordinating production of printing services, posting and removing signage, billing and collecting revenues from clients and other customary business practices.

### **Payments to Authority**

In consideration of the grants and privileges herein made and given to the Contractor by the Authority, the Contractor agrees to pay LAVTA a minimum guaranteed amount

(the “Minimum Annual Guarantee”) and a percentage of sales over the Minimum Annual Guarantee.

LAVTA reserves the right to use any other portion of the buses for its exclusive use for any advertising or promotion or purpose it deems to be in the interests of LAVTA. LAVTA also reserves the right to use any unsold exterior bus side advertising space for its exclusive use as mentioned above.

Contractor shall supply LAVTA a current rate card on an annual basis to allow the agency to utilize unsold exterior space for LAVTA announcements, marketing promotions, and related needs. Contractor shall administer all aspects of LAVTA's advertisements in accordance with the terms and conditions as outlined in this solicitation.

Space availability for advertising on LAVTA vehicles may change during the period of this Agreement for reasons including, but not limited to, the acquisition of new vehicles, the retiring of old vehicles or new bus designs or configurations which do not allow for exterior advertising capability.

The Contractor shall employ its best efforts to develop and make sales of advertising space and shall operate an office facility and work force capable of ensuring proper installation, maintenance, and removal of advertising displays.

Contractor shall provide an emergency phone number for LAVTA to reach Contractor in the case of an emergency situation. Contractor shall respond to the emergency situation within 24 hours of initial contact by LAVTA.

In addition to complying with LAVTA's Advertising Policy set forth in this RFP, the Contractor shall comply with generally accepted industry principles with respect to good taste and all applicable laws and regulations including but not limited to truth in advertising, copyrights, and trademarks. Additionally, the Contractor shall:

- Remove unapproved, damaged or defaced advertisements within 72 hours of notice given by the LAVTA.
- Remove all dated advertising materials within five (5) calendar days from its expiration date. Dated materials refer to advertising materials that are relevant to a specific time period or relevant to an event that has been completed.

### **Specific Requirements**

- a. **Location for Advertisements.** Advertising will be permitted on the exterior left, right, and rear sides of buses. At the contract initiation, and prior to the initial installation of vinyl advertisements, Contractor shall provide LAVTA with schematics detailing the exact location for placement of an advertisement, on non-permanent adhesive vinyl material, on each type of bus in LAVTA's fleet. Once approved by LAVTA, these locations will become the standard locations for placement of ads on buses within each sub-fleet through the term of the agreement. The ads shall not cover any Agency logos or contact information (phone, website, etc.). Wi-Fi sponsorship placement details are included in Section L, below.

b. **Material and Appearance of Advertisements.** The Contractor shall use only display materials that conform to current industry standards and are acceptable to LAVTA. Transit vehicle exterior display materials must be for exterior use, pressure sensitive removable vinyl posters, which have been specifically designed for direct application. Display must have either a UV over laminate or a protective clear-coat. Additionally, each ad:

- a. shall be free from wrinkles, blisters or similar defects
- b. shall be "squared" to the vehicle contour lines
- c. shall present a sharp and clear appearance
- d. shall not be faded

c. **Dimensions of Advertisements.** LAVTA plans to adhere to the industry standards for advertisement dimensions as a baseline for this solicitation. All ads will be placed below the window on both the driver and curbsides. No full wraps or partial wraps will be available for advertising. Ad size will vary depending on vehicle type (low floor versus high floor) and size (29 foot versus 35 foot or 40 foot). A complete list of vehicles available for advertising is listed in Exhibit 2. Interested proposers may schedule an appointment to inspect the fleet during normal business hours. If a proposer wishes to propose alternate dimensions, those dimensions and diagrams should be provided in their proposal. LAVTA desires to limit the type of advertising due to an upcoming rebranding of the bus system in 2016.

d.

**Standard Dimensions**

<i>Driver/Street Side</i>	
Traditional King	30" x 144"
Traditional Super King	30" x 216"
Driver Side Kong	42" x 232"
<i>Curbside</i>	
Traditional Queen	30" x 88"
Empress	42" x 114"
<i>Rear</i>	
Supertail	34" x 84"
Traditional Tail	21" x 70"

No front of bus advertising is available.

e. **Continuous Advertisement.** 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 a new vinyl. Under no circumstances shall Contractor allow any one exterior ad to remain adhered to any vehicle in excess of one (1) year.

- f. **Restoration of Bus Side.** Upon removal of a 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 LAVTA's vehicles, their paint schemes, existing decals, or exterior surface. The Contractor will be notified of any such damage and LAVTA will not proceed with repair for 48 hours after notification to the Contractor to enable the Contractor time to inspect the damage if so desired. The Contractor shall be required to reimburse LAVTA for the full dollar cost to repair any damage to LAVTA's vehicles and/or property resulting from application or removal of the vinyl advertisement or any other activities of the Contractor.
- g. **Fleet Size of Buses.** Sole discretion for assignment of buses shall remain with LAVTA. Any reference in this document to any particular number or count of buses (e.g. the available fleet size) shall not be construed to carry any guarantee, express or implied, that any certain count of vehicles or of fleet size shall be available to the Contractor for advertising displays at any given time. LAVTA shall be the sole judge of such matters of safety, convenience, appearance, and the number and location of vinyls on any vehicles.
- h. **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.
- i. **Self Promotion.** The Contractor will not be allowed to engage in unpaid self promotion without prior written approval from LAVTA.
- j. **Maintenance of Advertisements.** The Contractor shall be solely responsible to keep and maintain all the vinyl's placed on LAVTA buses in good condition, and will bear the full cost of any and all maintenance and repair of the vinyls. In the event the Contractor fails to satisfy the requirements of subsections below, LAVTA may elect to repair, alter, or remove the vinyl and to charge the Contractor for all labor and material costs for all such work. The Contractor agrees to pay LAVTA the cost of performing such work provided LAVTA gives the Contractor verbal notice, followed by an email notice, of the intent to repair, alter or remove the vinyl advertisement prior to actually undertaking such activity.
- k. **Placement of Advertisements.**
- No vinyl will be allowed to interfere with any safety devices, lights, signals, licensing, website addresses, phone numbers or distinctive logos, or decals on LAVTA vehicles. This includes, but is not limited to: reflective materials, side directional lights, side reflectors and other features. In addition, vinyls 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.
  - Vinyls shall not be placed over any body moldings. Vinyl applied over body panel seams shall be sliced and tucked into those seams.
  - Vinyl's smaller than the allocated area shall be centered in the allocated area.
  - Vinyl shall not be placed within one (1) inch of LAVTA's name or its logo.

- I. **Wi-Fi Sponsorship** LAVTA is making available sponsorship opportunities to fund the ongoing cost of operating the Wi-Fi service on Rapid and Express buses. The Wi-Fi Sponsorship Package, including suggested sponsors and rates, as well as the placement and language of the sponsorship ads on the exterior of the buses is included in Exhibit 3.

### **Defaced or Damaged Advertisements**

The Contractor shall develop and implement a fully staffed maintenance, cleaning, repair or replacement program plus a Quality Control Program that ensures that the advertising material installed on LAVTA vehicles is in good condition at all times. More particularly, the Contractor will be required to remove immediately, but no later than 24 hours from notice given by LAVTA, any graffiti on the vinyls not removed during LAVTA's regular, daily cleaning of the vehicles (generally vehicles are run through an automatic bus washer daily), and to make other repairs as necessary to vinyl's that are otherwise damaged or defaced.

Any vehicle bearing a vinyl that is damaged, defaced or marked with graffiti that is not repaired, corrected or removed by the Contractor as required above, shall be considered unsuitable for revenue service and the Contractor will be assessed per conditions set within this solicitation.

### **Limitations and Review of Advertisements**

- a. **Limitations of Advertisements.** Contractor shall not display or maintain any advertisement that include one or more of the following categories:
  - **False, Misleading, or Deceptive Commercial Speech.** The advertisement proposes a commercial transaction, and the advertisement or information contained in the advertisement is false, misleading, or deceptive.
  - **Libelous Speech, Copyright Infringement, etc.** The advertisement, or any material contained in it, is libelous or an infringement of copyright, or is otherwise unlawful or illegal or likely to subject LAVTA to litigation.
  - **Unlawful Goods or Services.** The advertisement or material contained in it, promotes unlawful or illegal goods, services, or activities.
  - **Endorsement.** The advertisement or any material contained in it, implies or declares an endorsement by LAVTA, its Directors, management, or employees of any service, product, or point of view without prior written authorization from LAVTA.
  - **Prurient Interest.** 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. For purposes of these guidelines, the term "minor" shall have the meaning contained in California Penal Code Section 313.
  - **"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 sides, and escort services.

- **Obscenity or Nudity.** The advertisement contains obscene materials or images of nudity. For purposes of these Guidelines, the term “obscene matter” shall have the meaning set forth in the California Penal Code Section 311.
  - **Unlawful and Detrimental Conduct.** The advertisement, or any material contained in it, promotes or encourages, or appears to promote or encourage, unlawful or illegal behavior or activities, and promotes behavior or activities which are detrimental to the maintenance and safe operations of LAVTA.
  - **Demeaning or Disparaging.** The advertisement contains images or information that demeans or disparages an individual or group of individuals on account of race, color, religion, national origin, ancestry, gender, age disability or sexual orientation.
  - **Violence.** The advertisement either (a) contains images or descriptions of graphic violence, including, but not limited to, 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; or (b) the advertisement, or any material contained in it, incites or encourages, or appears to incite or encourage violence or violent behavior.
  - **Firearms.** The advertisement either (a) contains an image of a firearm in the foreground of the main visual, or (b) contains image(s) of firearms that occupy 15% or more of the overall advertisement.
  - **Profanity.** The advertisement contains words recognized by the community as vulgar indecent or profane for display in a public setting that includes minors.
  - **Alcohol/Tobacco.** The advertisement promotes the use of alcohol and/or tobacco products.
  - **Graffiti.** The advertisement contains graphics or language that promotes, resembles, or otherwise encourages graffiti or vandalism.
  - **Inappropriate Graphics.** The advertisement contains graphics recognized by the community as inappropriate, including, but not limited to, the depiction of human or animal bodies or body parts, or fetuses, in states of mutilation, dismemberment, decomposition, or disfigurement.
  - **Political Information.** The advertisement contains political information or local or national controversial subject or subjects not in accordance with the statutes, ordinances, and court decisions pertaining to the LAVTA service area.
- b. **Review of Advertisements.** Contractor shall review each advertisement submitted for installation, display and maintenance on LAVTA properties to determine whether the advertisement conforms with one or more of the categories set forth in the Limitations on Advertising section of these Standards:
- Contractor shall promptly notify LAVTA, through the designated Contract Administrator, of its determination and the reason(s) for its designation. The Contract Administrator shall immediately notify the Executive Director.
  - Upon receipt of notification, LAVTA shall advise the Contractor whether LAVTA concurs with the Contractor’s determination.
  - In the event LAVTA concurs in the determination of the Contractor, the Executive Director, in consultation with the advertiser one or more revisions to the advertisement, in order to bring the advertisement into conformity with the

Standards. The advertiser shall then have the option of submitting a revised advertisement for review in accordance with these procedures.

- In the event the Contractor and the Advertiser do not reach agreement with regard to a revision of the advertisement, or in the event the Contractor determines that no appropriate revision would bring the advertisement into conformity with the Standards, the advertiser may request that the Contractor obtain a formal determination from the LAVTA Executive Director. In reaching a formal determination, the LAVTA Executive Director may consider any materials submitted by the advertiser, and may consult with the Contractor, and/or with the LAVTA Legal Counsel.
- The LAVTA Executive Director shall promptly provide the Contractor with a written notice of the formal determination, and the Contractor shall relay the formal determination to the advertiser. LAVTA's formal determination shall be final.
- Contractor may appeal LAVTA Executive Director's formal decision in writing to the LAVTA Board of Directors. The determination of the LAVTA Board of Directors shall be final.

### **Liquidated Damages for Delay**

It is agreed by the parties that TIME IS OF THE ESSENCE, and in the event of a delay in completion of the work or the delivery of the supplies, materials, or equipment beyond the date set forth in the solicitation documents, or authorized extensions, damage will be sustained by the Authority, and that it is or will be impracticable to determine the actual amount of the damage by reason of such delay. It is, therefore, agreed that the contractor will pay the Authority \$100 per day per bus for each day that the contractor does not complete the work in compliance with the solicitation documents and beyond the dates set forth in the solicitation documents as liquidated damages.

### **Locations of Bus Facilities**

LAVTA currently operates vehicles from its Maintenance, Operations, and Administration Facility at 1362 Rutan Court, Livermore California and may be operating vehicles from the Bus Fuel and Wash Facility at 875 Atlantis Court, Livermore at some point in the future.

### **Contractor Ingress and Egress**

Contractor shall check-in before entering and check-out upon leaving LAVTA premises or leased property with the appropriate personnel and on-duty maintenance supervisor.

Contractor shall provide reflective safety vests and company identification badges for its employees to be worn at all times while on LAVTA property.

Contractor shall use a clearly identifiable vehicle for purposes of entering LAVTA property.

All vehicles used to install, remove or maintain the advertisement on LAVTA buses while on LAVTA or LAVTA leased property shall display a business sign on the outside of each front door, both left and right sides, signifying the name of the company



authorized to perform work on LAVTA buses. The sign may be of the magnetized type. No private vehicle will be allowed on LAVTA or LAVTA leased property unless it displays the proper signage.

Contractor shall conduct all of its work on LAVTA buses between 9:00 p.m. and 4:00 a.m. on weekdays when LAVTA's transit vehicles are not in revenue service, or between 8:00 a.m. and 5:00 p.m. on weekends, unless prior arrangements are made. Contractor shall not interfere with LAVTA operations when installing, removing or maintaining ads.

### **Contractor's Work on LAVTA Property**

- 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 on LAVTA property.
- LAVTA shall make every attempt to provide sufficient room between bus rows so as to allow for installation or removal of ads while buses are parked, at each applicable site. Indoor workspace is not available. LAVTA and Contractor shall agree on how best to resolve any problems arising regarding the location of buses at each applicable site. The Contractor shall perform the work in such a manner as to eliminate unnecessary noise, obstruction, hazardous conditions, or other disturbances to LAVTA's operation or its personnel. During the performance of the work, the Contractor shall bear full responsibility for the protection and safety of the public, LAVTA personnel and LAVTA equipment and facilities. Any damage arising from the Contractor's performance of the work shall be repaired or remedied immediately at the Contractor's sole expense.
- Contractor shall make available the necessary number of employees to conduct the Quality Control Program.

During the performance of the work under this Contract, the Contractor shall keep the working area in a neat and safe condition. The Contractor shall make arrangements to dispose of any waste generated by its performance or activities off of LAVTA property.

### **Conduct of Employees**

Contractor shall ensure that its officers, agents, or employees while on LAVTA property or using equipment will conduct themselves in a safe and proper manner and if a complaint is made by LAVTA personnel, the Contractor will take such corrective measures as are necessary. If the Contractor does not take such corrective measure, LAVTA may deem the Contractor in breach of its obligations under the Agreement. Contractor further covenants and agrees that in the exercise of the rights and privileges granted hereunder its employees or representatives will not deface or damage the property of LAVTA or deposit or scatter any rubbish, debris, waste, litter or other material in or about said premises. The Contractor agrees to assume full liability and responsibility for actions on the part of its employees and agents, and shall pay for any clean up required to restore the property to its condition prior to entry by Contractor or as otherwise determined to be necessary by LAVTA.

### **Extra Services**

While not required by the RFP, the scoring criteria will take into account services proposed that are above and beyond the RFP requirements. The Authority's current contractor provides advertising space, design, and installation services for Authority use and also funds the community art shelter program. The Authority is interested in preserving these programs.

### **Changes in Scope of Work**

LAVTA, without invalidating the contract, may order additions to or deletions from the work to be performed. If justified, the contract charges will be adjusted accordingly. Any alteration(s) made in the provisions that are a part of the contract shall not operate to release any surety or sureties from liability or any bond(s) attached thereto and made a part thereof. New provisions must be mutually agreeable to LAVTA and the Contractor. Contract Modifications must be authorized by the LAVTA Executive Director and must be completed as an Amendment to the Agreement.

LAVTA shall have the right to make changes in vehicles, vehicle configurations, vehicle types and related elements of work not involving extra cost and not inconsistent with the work to be performed.

### **1.3 Contract Period**

The start date for the project will commence on July 1, 2017 and continue for an initial three (3) year base term with two one-year options, exercisable by LAVTA in its sole discretion. Should LAVTA determine to exercise an option, LAVTA will notify the Contractor of its determination, in writing, at least ninety (90) days prior to the end of the base term or first option term, as applicable. The contract completion date for this RFP will be no later than June 30, 2022.

### **1.4 Payment Instructions**

Contractor shall make monthly payments to LAVTA. Said monthly payments shall be made by the 10th working day of each month. Payment shall be for all amounts due to LAVTA for the preceding month and shall be based on the compensation structure set forth in Agreement. Said monthly payments shall be accompanied by a schedule which shows the advertisements which were displayed, the gross revenue earned for the advertisement, the amount and description of any deductions permitted by Section III, Subsection 1.6, and the amount of revenues to earned in the future under existing contracts.

Effective the first month of the Agreement, and each month thereafter, the Contractor shall remit by the 10th working day of each month an amount equal to one-twelfth of the annual guaranteed minimum for that year or a percentage of the Contractor's specified net advertising revenue, whichever is greater.

All payments, regardless of their nature, shall be submitted in a timely manner. Late payments shall be subject to a 5% penalty and 1-1/2% interest per month.

All payments should be sent to:           Accounts Receivable  
  Livermore Amador Valley Transit Authority  
  1362 Rutan Court, Suite 100

Livermore, CA 94551

## **2.0 ADDITIONAL REQUIREMENTS**

### **2.1 Insurance**

The insurance requirements specified in this section shall apply to Consultant and any subcontractors, suppliers, temporary workers, independent contractors, leased employees, or any other persons, firms or corporations that Consultant authorizes to work under this Agreement (hereinafter collectively referred to as “Agents”). Consultant and all Agents are required to procure and maintain at their sole cost and expense the insurance coverages subject to all of the requirements set forth below. Such insurance shall remain in full force and effect throughout the term of this Agreement. To the extent that any Agent does not procure and maintain such insurance coverage, Consultant shall be responsible for said coverage and assume any and all costs and expenses that may be incurred in securing said coverage or in fulfilling Consultant’s indemnity obligation as to itself or any of its Agents in the absence of coverage. In the event Consultant or its Agents procure excess or umbrella coverage to maintain certain requirements outlined below, these policies shall also satisfy all specified endorsements and stipulations, including provisions that the Consultant’s insurance be primary without any right of contribution from the Authority. Prior to beginning work under this contract, Consultant shall provide the Authority with satisfactory evidence of compliance with the insurance requirements of this section.

#### **A. Minimum Types and Scope of Insurance**

##### **1.) Workers’ Compensation and Employers’ Liability Insurance**

- a. Workers’ Compensation with Statutory Limits, as required by Section 3700 et seq of the California Labor Code, or any subsequent amendments or successor acts thereto governing the liability of employers to their employees.
- b. Employers’ Liability coverage with minimum limits of \$1 million.
- c. Such insurance shall include the following endorsement as further detailed in the Endorsements Section below:
  - Waiver of Subrogation.

##### **2.) Commercial General Liability Insurance**

Commercial General Liability insurance for bodily injury and property damage coverage with a combined single limit for bodily injury and property damage of at least \$1 million per occurrence or claim and a general aggregate limit of at least \$2 million. Such insurance shall cover all of Consultant’s operations both at and away from the project site.

- a. This insurance shall include coverage for, but not be limited to:
  - Premises and operations.

- Products and completed operations.
  - Contractual liability.
  - Personal injury.
  - Advertising injury.
  - Explosion, collapse, and underground coverage (xcu).
  - Broad form property damage.
- b. Such insurance shall include the following endorsements as further detailed in the Endorsements Section below:
- Additional Insured.
  - Cross Liability or Severability of Interests Clause.
  - Primary and Non-Contributory wording.
  - Waiver of Subrogation.

Products and completed operations insurance shall be maintained for three (3) years following termination of this Agreement.

### **3.) Business Automobile Liability Insurance**

Business Automobile Liability insurance providing bodily injury and property damage with a combined single limit of at least \$1 million per occurrence.

- a. This insurance shall include coverage for, but not be limited to:
- All Owned vehicles.
  - Non-owned vehicles.
  - Hired or rental vehicles.
- b. Such insurance shall include the following endorsements as further detailed in the Endorsements Section below:
- Additional Insured.
  - Primary and Non-Contributory wording.
  - Waiver of Subrogation.

### **4.) Professional Liability Insurance**

The Consultant, at its own cost and expense, shall maintain professional liability insurance for the period covered by the Agreement, and two years following completion of the contract in an amount not less than \$1,000,000 covering errors and omissions in the services of the Consultant performs under the Agreement. The policy limits of this professional liability insurance policy shall apply separately to the Agreement.

## **B. ENDORSEMENTS**

### **1.) Additional Insured**

The referenced policies and any Excess or Umbrella policies shall include as Additional Insureds the Livermore Amador Valley Transit

Authority and its directors, officers, employees, volunteers and agents while acting in such capacity, and their successors or assignees, as they now, or as they may hereafter be constituted, singly, jointly or severally.

**2.) Waiver of Subrogation**

The referenced policies and any Excess or Umbrella policies shall contain a waiver of subrogation in favor of the Livermore Amador Valley Transit Authority and its officers, directors, employees, volunteers and agents while acting in such capacity, and their successors and assignees, as they now, or as they may hereafter be constituted, singly, jointly or severally.

**3.) Primary Insurance**

The referenced policies and any Excess and Umbrella policies shall indicate that they are primary to any other insurance and the insurance company(ies) providing such policy(ies) shall be liable thereunder for the full amount of any loss or claim, up to and including the total limit of liability, without right of contribution from any of the insurance effected or which may be effected by the Livermore Amador Valley Transit Authority.

**4.) Severability of Interests or Cross Liability**

The referenced policies and any Excess or Umbrella policies shall contain either a Cross Liability endorsement or Severability of Interests Clause and stipulate that inclusion of the Livermore Amador Valley Transit Authority as an Additional Insured shall not in any way affect Authority's rights either as respects any claim, demand, suit or judgment made, brought or recovered against the Consultant. Said policy shall protect Consultant and the Livermore Amador Valley Transit Authority in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the insurance company's liability as set forth in its policy beyond the amount or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.

**C. EVIDENCE OF INSURANCE**

**All Coverages**

Prior to commencing work or entering onto the Property, Consultant shall provide the Director, Contracts, and Procurement of the Authority with a certificate evidencing coverage, and upon request, a certified duplicate original of the policy. The certificate shall also show that the Consultant's policy(ies) will not be cancelled or coverage altered without 30 days prior written notice to the Authority's Executive Director.

**D. GENERAL PROVISIONS**

**1.) Notice of Cancellation**

The policies shall provide that the Consultant's policies will not be cancelled or have limits reduced or coverage altered without 30 days

prior written notice to the Authority's Executive Director.

**2.) Acceptable Insurers**

All policies will be issued by insurers acceptable to the Authority (generally with a Best's Rating of A- 10 or better).

**3.) Self-insurance**

Upon evidence of financial capacity satisfactory to the Authority and Consultant's agreement to waive subrogation against the Authority respecting any and all claims that may arise, Consultant's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance.

**4.) Failure to Maintain Insurance**

All insurance specified above shall remain in force until all work to be performed is satisfactorily completed, all of Consultant's personnel and equipment have been removed from the Authority property, and the work has been formally accepted. The failure to procure or maintain required insurance and/or an adequately funded self-insurance program will constitute a material breach of this Agreement.

**5.) Claims Made Coverage**

If any insurance specified above shall be provided on a claim-made basis, then in addition to coverage requirements above, such policy shall provide that:

- a. Policy retroactive date coincides with or precedes the Consultant's start of work (including subsequent policies purchased as renewals or replacements).
- b. Consultant shall make every effort to maintain similar insurance for at least three (3) years following project completion, including the requirement of adding all named insureds.
- c. If insurance is terminated for any reason, Consultant agrees to purchase an extended reporting provision of at least three (3) years to report claims arising from work performed in connection with this Agreement.
- d. Policy allows for reporting of circumstances or incidents that might give rise to future claims.

**6.) Deductibles and Retentions**

Consultant shall be responsible for payment of any deductible or retention on Consultant's policies without right of contribution from the Authority.

In the event that the policy of the Consultant or any subcontractor contains a deductible or self-insured retention, and in the event that LAVTA seeks coverage under such policy as an additional insured, Consultant shall satisfy such deductible or self-insured retention to the

extent of loss covered by such policy for a lawsuit arising from or connected with any alleged act or omission of Consultant, subcontractor, or any of their officers, directors, employees, agents, or suppliers, even if Consultant or subcontractor is not a named defendant in the lawsuit.

## **2.2 Confidentiality**

The California Public Records Act (California Government Code Sections 6250 et seq.) mandates public access to government records. Therefore, unless the information is exempt from disclosure by law, the content of any request for explanation, exception, or substitution, response to these specifications, protest or any other written communication between Authority and the proposer shall be available to the public.

If the proposer believes any communication contains trade secrets or other proprietary information that the proposer believes would cause substantial injury to the proposer's competitive position if disclosed, the proposer shall request that Authority withhold from disclosure the proprietary information by marking each page containing such proprietary information as confidential. The proposer may not designate its entire proposal or bid as confidential. Additionally, proposer may not designate its cost proposal or any required bid forms or certifications as confidential.

If proposer requests that Authority withhold from disclosure information identified as confidential, and Authority complies with the proposer's request, proposer shall assume all responsibility for any challenges resulting from the non-disclosure, indemnify and hold harmless Authority from and against all damages (including but not limited to attorneys' fees that may be awarded to the party requesting the proposer information), and pay any and all costs and expenses related to the withholding of proposer information.

Proposer shall not make a claim, sue or maintain any legal action against Authority or its directors, officers, employees or agents in connection with the withholding from disclosure of proposer information.

If proposer does not request that Authority withhold from disclosure information identified as confidential, Authority shall have no obligation to withhold the information from disclosure and may release the information sought without any liability to Authority.

## **2.3 Conflict of Interest**

Proposer represents and warrants that it presently has no interest and agrees that it will not acquire any interest which would present a conflict of interest under California Government Code §§ 1090 et seq. or §§ 87100 et seq. during the performance of services under the Agreement. Proposer shall promptly disclose any actual or potential conflict of interest to Authority as soon as proposer becomes aware of such conflict. Proposer further covenants that it will not knowingly employ any person having such an interest in the performance of the Agreement. Violation of this provision may result in the Agreement being deemed void and unenforceable.

No member, officer, or employee of the Authority or of any of its member jurisdictions during his/her tenure of office, or for one year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds therefrom.

## **2.4 Performance Security**

Upon execution of the Contract, the Proposer shall furnish, at its own expense, Performance Securities in a form satisfactory to LAVTA as a guarantee of good faith on behalf of the Proposer that the terms of this Contract shall be complied with in every particular. This Performance Security shall be in the amount of \$50,000 issued by an admitted surety insurer authorized to transact surety business within the State of California. Alternatively, the Proposer may deposit with LAVTA a Certified or Cashier's Check upon some solvent bank or Irrevocably Standby Letters of Credit for the amount, for the faithful performance of the Contract. The sample Irrevocable Standby Letter of Credit can be found in Appendix A. The Performance Securities shall remain in full force and effect for the entire term of the contract, including option terms if exercised. LAVTA must give its written consent to any substitution of surety and maintains the right to reject a proposed substitution.



SECTION III

PROPOSAL CONTENT

## **1.0 PROPOSAL CONTENT**

### **1.1 Format**

The intent of this RFP is to encourage responses that clearly communicate the proposer's understanding of the scope of work and the proposer's approach to meet LAVTA's requirement for exterior advertising services.

Proposals should be limited to specific discussion of the elements outlined in this RFP. Respondents are encouraged to avoid submissions that are poorly organized or in which important information is obscured by unnecessary promotional material. Short, succinct, and clear submittals are less likely to be marked down due to uncertainty as to meaning or misinterpretation. The Evaluation Committee will assume the most unfavorable interpretation when information is unclear, ambiguous, or missing. Respondents are encouraged to submit proposals that best address the evaluation criteria outlined in Section IV, Evaluation and Award, subsection 1.1.

The organization of each proposal should follow the general outline below. Proposals should not exceed fifty (50) pages in length, excluding any appendices. The page limit applies to Proposer's Qualifications, Experience and References and Technical Proposal section. Examples of previous work product may be submitted in print, PowerPoint presentation, video, or compact disc. All sample materials will be available for return at respondent's request.

Respondent's proposal shall include the following items in the following sequence:

### **1.2 Cover Form**

The signed cover form, provided in Appendix A, contains the following:

- a) Date submitted and complete name and address of person who will receive correspondence and who is authorized to make decisions or represent the Proposer and contractually bind the firm. This person shall also sign the Proposed Compensation Form. Identification shall include legal name of company, corporate address, telephone and fax number and contact person during period of proposal evaluation.
- b) An understanding of the conditions under which the proposal is offered.
- c) Acknowledgement of receipt of all RFP addenda, if any. A statement to the effect that the proposal shall remain valid for a period of not less than one hundred twenty (120) days from the date of submittal.

- d) An understanding that LAVTA reserves the right to reject any or all Proposals or to waive any informality or technicality in any proposal in the interest of LAVTA.
- e) A statement that Proposer is prepared to sign the Sample Agreement without alterations or exceptions or whether it is requesting modifications to the Sample Agreement and/or any requirements of this RFP.
- f) A statement confirming the commitment of adequate resources to meet LAVTA's quality and schedule expectations.
- g) Signature of a person authorized to bind Proposer to the terms of the proposal.

### **1.3 Evidence of Ability to Provide Insurance**

Provide evidence in the form of a certificate of insurance or letter from Proposer's broker/agent that verifies the firm is able to meet the minimum insurance requirements as detailed in Section II – Scope of Work, subsection 2.1 including, workers' compensation insurance, commercial general liability insurance, automobile liability insurance and professional liability insurance.

### **1.4 Proposer's Qualifications, Experience and References**

The following information shall be included:

- a) Summary - A brief description of the Proposer's qualifications for furnishing the exterior advertising services, including the organization name, size, and years in business.
- b) Firm Experience – This section should contain a concise description of the proposer's background and experience in providing exterior advertising services to public transit sector similar to those outlined in the Scope of Work, listing at least three projects within the last three years (not including any projects completed for LAVTA). The information submitted should include:
  - Name, address, and telephone number of the responsible official of the organization
  - Cost of the contract
  - Dates services encompass
  - Services provided
  - The status of the contract

Proposer must demonstrate that it has experience in the advertising business and that Proposer has the capability of properly operating such business in the Cities of Dublin, Livermore, and Pleasanton, and the unincorporated areas of Alameda County. Proposer must demonstrate that it has the capacity and ability to conduct a sales program designated to produce maximum advertising income for LAVTA. Proposer must provide photographs of successful installations.

- c) Financial stability and history of the Proposer - Provide a statement of your firm's financial strength, stability, capacity, and resources. Company official reports and other similar materials (balance sheet and income statements, with 3-year summary history) should be provided. Provide information about the history of the firm, demonstrating viability of the firm.
  - o Identify any past (within last 3 years) or pending litigation against the Proposer alleging failure to perform in accordance with contractual obligations, and describe present status. If there is no such litigation, this must be explicitly stated.
  - o List any projects, which have resulted in time extensions and/or the assessment of liquidated damages against any member of the project team during the last five (5) years.

## 1.5 Technical Proposal

Exterior Advertising Sales - The following shall be included as a description of the proposed services to be provided by the Proposer under this contract:

- a) Detailed Work Plan describing how the proposer intends to provide the services outlined in Section II. Special attention must be paid to the new advertising restrictions and Wi-Fi sponsorship opportunities detailed in Section II.
- b) Quality Control Program describing how the proposer intends to meet the requirements outline in this RFP.
- c) Creative ideas and incentives that will maximize revenues and distinguish the proposer from others. Proposers should include any ideas that are proposed to maximize revenues and examples of properties where these ideas have been successful and other incentives that may make the proposer stand out from others.
- d) Submit an estimated rate card from your Firm detailing the advertiser cost for advertisement on the sides and rear of LAVTA vehicles, including all applicable discounts for increased showing, frequency or length of posting special packages/programs, etc.
- e) Conformance to the terms of the requirements of the RFP – The Proposer should describe if they can meet all the requirements of the RFP. Any deviation with the RFP requirements should be clearly identified and described. Failure to specify any exceptions or objection to the requirements, and terms and conditions of this RFP will constitute acceptance of LAVTA's requirements.
- f) Identification of any parts of the proposal the proposer considers proprietary and a written justification for the claim.

## 1.6 Compensation Proposal

Provide the following revenue amounts using the Form in Appendix A:

### Revenue-Share Percentage

Proposer shall specify an annual gross advertising revenue-share percentage, to be paid to LAVTA, of net advertising revenue for exterior bus side advertising space on LAVTA vehicles. For Fiscal Year 2016, LAVTA had a 50% revenue-share percentage.

The term "gross advertising revenue" means all monies, remunerations, and considerations of every kind ***billed to and received from*** advertisers for the sale of advertising space by the Contractor in its operations as permitted under the Agreement resulting from this RFP plus the revenue equivalent from all advertising (which may not have been sold) appearing on the exterior bus side space provided by LAVTA.

"Net advertising revenue" shall mean "gross advertising revenue" less the following:

- Deductions from gross sales of commissions paid to advertising agencies or sales representatives other than Contractor staff, if any, at a rate not exceeding fifteen percent (15%) of gross billings; and
- The amount of any sales, use, gross receipts, occupational and similar taxes (but excluding income and property taxes) directly imposed levied by any public agency on the sale or display of advertising under the terms of the Agreement resulting from this RFP and paid by the Contractor.

Gross advertising revenue shall be calculated on the accrual basis from billable income, (i.e., amounts are prorated to the time periods, which correlate to the time periods during which the advertising is displayed). Deductions to arrive at net advertising revenue (e.g., commissions) shall be amortized over the term of the advertising.

### Minimum Guarantee

Proposer shall specify a minimum guarantee rate to be paid to LAVTA on a monthly basis that consists of a fixed amount when the proposed Revenue-Share percentage is not met. Proposer shall estimate the annual gross advertising revenues expected in connection with this project. That amount shall be multiplied by the proposed revenue-share percentage. The resulting amount shall be the annualized minimum guarantee. For Fiscal Year 2016, LAVTA had an annual minimum guarantee amount of \$95,000.

### Capacity Incentive

Proposer shall specify a capacity incentive payment to LAVTA when, at any time, 67% or more of the total exterior space is sold to display advertisements. This shall be used for any LAVTA marketing activity, and

shall be paid annually prior to fiscal year end. Currently this incentive is \$7,500 per year.

LAVTA reserves the right to determine whether the minimum annual guaranteed revenue, the minimum percentage of net advertising revenue and the capacity incentive will be acceptable to LAVTA.

In the event that the number of LAVTA buses available for the placement of advertising changes by more than 10%, the minimum guaranteed payment may be adjusted by a proportionate amount. Any approved reduction in said payment must be directly attributable to a reduction in available advertising space and not due to the Contractor's poor business practices or its failure to vigorously pursue sales revenue. Contractor must provide documentation to LAVTA which proves to LAVTA's sole satisfaction that Contractor's reduction in revenue is due solely to a reduction in available advertising space before LAVTA will agree to any reduction in the minimum guaranteed payment. Excluded from this provision are temporary reductions in available advertising space due to work stoppages, strikes, mechanical failures, accidents, catastrophes, riots, and similar events.

### 1.7 Supporting Documentation

Proposals may include other material that may assist in evaluating the Proposal. Supporting documentation should be relevant and brief.

### 1.8 Completed Required Forms (Provided in Appendix A)

- **Proposal Cover Form**
- **Compensation Proposal Form**
- **Certification Regarding Workers Compensation**
- **Fair Employment Practices Certification**
- **Certification Concerning Control of Employee of Contractor**
- 
- **Performance Security.** Upon execution of the Contract, the Contractor shall furnish, at its own expense, Performance Securities in a form satisfactory to LAVTA as a guarantee of good faith on behalf of the Proposer that the terms of this Contract shall be complied with in every particular. This Performance Security shall be in the amount of **\$50,000** issued by an admitted surety insurer authorized to transact surety business within the State of California. Alternatively, the Contractor may deposit with LAVTA a Certified or Cashier's Check upon some solvent bank or Irrevocably Standby Letters of Credit for the amount, for the faithful performance of the Contract. The Sample Irrevocable Standby Letter of Credit can be found in Appendix A. The Performance Securities shall remain in full force and effect for the entire term of the contract, including option terms if exercised. LAVTA must give its written consent to any substitution of surety and maintains the right to reject a proposed substitution.
- **Insurance Certificate.** Evidencing that Proposer can meet the requirements of Part II, Section 2.1.

Respondent is expected to examine this RFP carefully, understand the terms and conditions for providing the products herein and respond completely. **FAILURE TO COMPLETE AND PROVIDE ANY OF THE ABOVE ITEMS MAY RESULT IN THE RESPONDENT'S PROPOSAL BEING DEEMED NON-RESPONSIVE AND THEREFORE DISQUALIFIED FROM CONSIDERATION.**

SECTION IV  
EVALUATION AND AWARD



**1.0 EVALUATION AND AWARD**

**1.1 Evaluation Criteria**

The Authority will evaluate the Proposals received based on the following criteria:

<b>Evaluation Criteria - % Weight (100% Best)</b>	<b>Scoring</b>
Complete and thorough conformance with the terms and requirements of this RFP (In your submittal, state if you have any exceptions to the requirements.)	Pass/Fail
<b>Proposer’s qualifications and experience:</b> Firm’s ability to provide the required services and generate the maximum revenue for LAVTA based on qualifications and references.	40 points
<b>Revenues:</b> Maximization of amount of expected revenues for the Authority	40 points
<b>Creative Ideas:</b> Ideas proposed to maximize additional advertising revenues, advertising space use and additional outlets that LAVTA can explore for future revenues.	15 points
<b>Incentives:</b> Ad space for Authority promotions on vehicles, and other proposed incentives.	5 points
<b>Total Points</b>	<b>100 points</b>

**1.2 Evaluation Procedure**

To be considered for evaluation, all proposals must be responsive to this Request for Proposals with respect to required submissions and must be compliant with all provisions as documented. LAVTA may reject as nonresponsive any proposal not meeting the requirements of this RFP.

An Evaluation Committee shall be comprised of Authority staff and may include outside personnel. The Committee members will evaluate the written proposals using the criteria identified in Section 1.1 above.

Firms submitting a proposal to this RFP may be required to give a demonstration and presentation of their proposal to LAVTA. This presentation may provide an opportunity for the firms to clarify or elaborate on the proposal but will in no way change the original submission.

Engagement staff shall be present at the oral presentation. LAVTA’s request for an oral presentation shall not constitute acceptance of a proposal.

After evaluating proposals based upon the criteria above, the Evaluation Committee will develop a list of top-ranked proposals within a competitive range, based upon the totals of each Committee members’ score for each proposal. At this time, proposers may be asked to submit a Revised Proposal. In a request for Revised Proposals, firms may be asked to provide additional information,

confirm or clarify issues and submit a final price offer. A deadline for submission will be stipulated. LAVTA may not require a Revised Proposal, so proposers should submit their best proposal in the initial response.

### **1.3 Award**

The Authority may negotiate contract terms with the selected Proposer(s) prior to award, and expressly reserves the right to negotiate with several Proposers simultaneously and, thereafter, to award a contract to the Proposer offering the most favorable terms to the Authority. LAVTA reserves the right to determine the best value to the Authority through this competitive process using highest weighted score analysis technique.

Negotiations may or may not be conducted with Proposers; therefore, the proposal submitted should contain Proposer's most favorable terms and conditions, since the selection and award may be made without discussion with any Proposer.

### **1.4 Notification of Award**

Proposers who submit a proposal in response to this RFP shall be notified by mail regarding LAVTA's intent to award the contract.

**PROPOSAL COVER FORM**  
**For**  
**Exterior Advertising Sales**  
**RFP # 2017-06**

Livermore Amador Valley Transit Authority (LAVTA)  
Livermore, CA

DATE SUBMITTED:

NAME OF INDIVIDUAL SUBMITTING PROPOSAL:

CONTACT PERSON:

NAME UNDER WHICH BUSINESS IS CONDUCTED:

STREET ADDRESS:

MAILING ADDRESS, IF DIFFERENT:

TELEPHONE:

FAX:

BUSINESS LICENSE NUMBER:

CONDITIONS:

1. The undersigned understands that he/she will be bound by the Proposal as expressed by these forms if an award is made by LAVTA. The Contract will be in accordance with this Proposal.
2. The Request for Proposals, Required Forms, and Addenda, if any, are made a part of this Proposal.
3. The undersigned understands that any clarification made to the Proposal Form or any new and different conditions or information submitted in or with the Proposal Form, other than that requested, may render the Proposer unresponsive.

4. The undersigned acknowledges the receipt of the following Addenda:

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- 5. The undersigned understands that all proposals shall remain in effect for one hundred twenty (120) days from the date of the submittal.
- 6. The undersigned understands that LAVTA reserves the right to reject any or all Proposals or to waive any informality or technicality in any proposal in the interest of LAVTA.
- 7. The undersigned certifies that the Proposal includes all costs for labor, materials, taxes, insurance, overhead, profits, and all other costs necessary to perform the work in accordance with the Contract Documents.
- 8. The undersigned will submit five sets of their proposal package and one electronic copy of the proposal on a CD or USB drive. The five sets of the proposal package and one electronic copy shall be placed in a sealed box (marked "On-Call Marketing Consulting Services Proposal"). The five sets of a proposer's proposal must be submitted as follows:

One original proposal with required signatures in ink by an officer of the proposer with the authority to bind the proposer to the terms of the RFP submitted in a separate securely sealed envelope marked as follows:

ORIGINAL: EXTERIOR ADVERTISING SALES PROPOSAL

Proposers are warned against making erasures or alterations of any kind without initialing each and every change.

Four sets of copies of the proposal submitted in a separate securely sealed envelope marked as follows:

COPY: EXTERIOR ADVERTISING SALES PROPOSAL

One electronic copy of the PROPOSAL on CD or USB drive.

The sealed box shall, prior to 2:00 pm Pacific Time on March 10, 2017, be delivered to:

Beverly Adamo  
Director of Administrative Services  
Livermore Amador Valley Transit Authority  
1362 Rutan Court, Suite 100  
Livermore, CA 94551

- 9. The undersigned is prepared to sign the Sample Agreement without alterations or exceptions or if it is requesting modifications to the Sample Agreement and/or any requirements of this RFP, shall include such requested modifications in its proposal.

10. The undersigned confirms the commitment of adequate resources to meet LAVTA's quality and schedule expectations.

**SIGNED:**

The undersigned certify that we sign this Proposal Form with full and proper authorization to do so.

\_\_\_\_\_  
Signature, Printed Name, and Title

\_\_\_\_\_  
Signature, Printed Name, and Title

**IF CORPORATION:**

This Corporation is incorporated under the laws of the State of:

\_\_\_\_\_

\*If Contractor is a corporation, two corporate officers must sign on behalf of the corporation as follows: (1) Chairman of the Board, President, or Vice President; and (2) Secretary, Assistant Secretary, Chief Financial Officer, or Assistant Financial Officer. In the alternative, this Contract may be executed by a single officer or a person other than an officer provided that evidence satisfactory to LAVTA is provided, demonstrating that such individual is authorized to bind the corporation (e.g., a copy of a certified resolution from the corporation's board or a copy of the corporation's by laws).

## Compensation Proposal Form Exterior Advertising Services Request for Proposal #2017-06

Enter below the proposed compensation for the functions listed as described in Section II, Scope of Work. Please be as specific as possible.

<b>Exterior Advertising Services</b>					
<b>Compensation Proposal – LAVTA Base (Fiscal Years – July 1 – June 30)</b>					
	<i>Year 1</i>	<i>Year 2</i>	<i>Year 3</i>	<i>Option Year 1</i>	<i>Option Year 2</i>
	<i>FY 2017 - 18</i>	<i>FY 2018 - 19</i>	<i>FY 2019 - 20</i>	<i>FY 2020 - 21</i>	<i>FY 2021 - 22</i>
Minimum Guarantee	\$	\$	\$	\$	\$
Revenue Share	\$	\$	\$	\$	\$
Capacity Incentive	\$	\$	\$	\$	\$

SIGNED:           The undersigned certify that we sign this Price Proposal Form with full and proper authorization to do so.

\_\_\_\_\_

Company Name

\_\_\_\_\_

Signature, Printed Name, and Title

\_\_\_\_\_

Signature, Printed Name, and Title

\*If Contractor is a corporation, two corporate officers must sign on behalf of the corporation as follows: (1) Chairman of the Board, President, or Vice President; and (2) Secretary, Assistant Secretary, Chief Financial Officer, or Assistant Financial Officer. In the alternative, this Contract may be executed by a single officer or a person other than an officer provided that evidence satisfactory to LAVTA is provided, demonstrating that such individual is authorized to bind the corporation (e.g., a copy of a certified resolution from the corporation's board or a copy of the corporation's by laws).

**CERTIFICATION REGARDING WORKER COMPENSATION**

Contract with the LIVERMORE AMADOR VALLEY TRANSIT AUTHORITY, 1362 Rutan Court, Livermore, California 94551, for Financial Auditing Services.

RFP # 2017

Labor Code Section 3700:

"Every employer, except the State, and all political subdivisions or institutions thereof, shall secure the payment of compensation in one or more of the following ways:

(a) By being insured against liability to pay compensation by one or more insurers, duly authorized to write compensation insurance in this State.

(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to employees."

I am aware of the provisions of Section 3700 of the Labor Code, which require every employer to be insured against liability for worker's compensation or to undertake self-insurance. In accordance with the provisions of that code, I will comply with such provisions before commencing the performance of the work of this contract.

Dated: \_\_\_\_\_, 201\_\_ (Proposer)

By \_\_\_\_\_  
\_\_\_\_\_  
(Official Title)

(SEAL)

(Labor Code Section 1861, provides that the above certificate must be signed and filed by the Proposer with the Authority prior to performing any work under this contract.)

## FAIR EMPLOYMENT PRACTICES CERTIFICATION

In connection with the performance of work under this contract, the Proposer agrees as follows:

1. The Proposer will not willfully discriminate against any employee or applicant for employment because of race, color, religious creed, ancestry, national origin, age, sex, physical disability, mental disabilities, marital status, or medical condition as defined in Government Code §12926. The Proposer will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religious creed, ancestry, national origin, age, sex, physical disability, mental disability, marital status, or medical condition as defined in Government Code §12926. 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. The Proposer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this Fair Employment Practices section.
2. The Proposer will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, advising the said labor union or workers' representative of the Proposer's commitments under this section; and the Proposer shall post copies of the notice in conspicuous places available to employees and applicants for employment.
3. The Proposer will permit access to its records of employment, employment advertisements, application forms, and other pertinent data and records by the Fair Employment Practices Commission, LAVTA, or any other appropriate agency of the State of California designated by LAVTA for the purposes of investigation to ascertain compliance with the Fair Employment Practices section of this contract.
4. A finding of willful violation of the Fair Employment Practices section of this contract or of the Fair Employment Practices Act shall be regarded by LAVTA as a basis for determining the Proposer to be not a "responsible Proposer" as to future contracts for which such Proposer may submit Proposals, for revoking the Proposer's pre-qualification rating, if any, and for refusing to establish, re-establish, or renew a pre-qualification rating for the Proposer.

LAVTA shall deem a finding of willful violation of the Fair Employment Practices Act to have occurred upon receipt of written notice from the Fair Employment Practices Commission that it has investigated and determined that the Proposer has violated the Fair Employment Practices Act and has issued an order under Government Code §12970 or obtained a court order under Government Code §12973.

Upon receipt of such written notice from the Fair Employment Practices Commission, LAVTA shall notify the Proposer that, unless it demonstrates to the satisfaction of LAVTA within a stated period that the violation has been corrected, the Proposer's pre-qualification rating will be revoked.

5. The Proposer agrees that should LAVTA determine that the Proposer has not complied with the Fair Employment Practices section of this contract then, pursuant to Labor Code Sections 1735 and 1775, the Proposer shall, as a penalty to LAVTA, forfeit, for each calendar day, or portion thereof, for each person who was denied employment as a result of such noncompliance, the penalties provided in the labor code for violation of prevailing wage rates. Such monies may be recovered from the Proposer. LAVTA may deduct any such damages from any monies due the Proposer.
6. Nothing contained in this Fair Employment Practices section shall be construed in any manner of fashion so as to prevent LAVTA from pursuing any other remedies that may be available at law.
7. Prior to award of the contract, the Proposer shall certify to LAVTA that it has or will meet the following standards for affirmative compliance, which shall be evaluated in each case by LAVTA:
  - a. The Proposer shall provide evidence, as required by LAVTA, that it has notified all supervisors, foremen and other personnel officers, in writing, of the content of the anti-discrimination clause and their responsibilities under it.



b. The Proposer shall provide evidence, as required by LAVTA, that it has notified all sources of employee's referral (including unions, employment agencies, advertisements, Employment Development Department) of the content of the anti-discrimination clause.

c. The Proposer shall file a basic compliance report as required by LAVTA. Willfully false statements made in such reports shall be punishable as provided by law. The compliance report shall also spell out the sources of the work force and who has the responsibility for determining whom to hire or whether or not to hire.

d. Personally, or through its representatives, the Proposer shall, through negotiations with the unions with whom it has agreements, attempt to develop an agreement which will:

(1) Spell out responsibilities for nondiscrimination in hiring, referral, upgrading, and training.

(2) Otherwise implement an affirmative anti-discrimination program in terms of the unions' specific areas of skill and geography to the end that qualified minority workers will be available and given an equal opportunity for employment.

e. The Proposer shall notify LAVTA of opposition to the anti-discrimination clause by individuals, firms, or organizations during the period of its pre-qualification.

8. The Proposer will include the provisions of the foregoing Paragraphs 1 through 7 in every first-tier subcontract so that such provisions will be binding upon each subconsultant.

9. Statements and Payrolls. The Proposer shall maintain its records in conformance with the requirements included in the Information to Proposers and the following Special Conditions:

a. The submission by the Proposer of payrolls or copies thereof, is not required. However, each Proposer and sub-contractor shall preserve their weekly payroll records for a period of three (3) years from the date of completion of this contract.

b. The payroll records shall contain the name, address and social security number of each employee, his/her correct classification, rate of pay, daily and weekly number of hours worked, itemized deductions made, and actual wages paid.

c. The Proposer shall make its payroll records available at the project site for inspection by LAVTA and shall permit LAVTA to interview employees during working hours on the job.

The following certification is to be executed by every Proposer and enclosed and forwarded in a sealed envelope containing the Proposal. The person signing the certification shall state his/her address and official capacity.

### Fair Employment Practices Certification

The undersigned, in submitting a Proposal for performing work as specified in the Scope of Work hereby certifies that the Proposer will meet the above standards of affirmative compliance with the Fair Employment Practices Act.

\_\_\_\_\_  
PROPOSER

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINTED NAME OF SIGNER

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
MAILING ADDRESS

\_\_\_\_\_  
CITY STATE ZIP CODE

\_\_\_\_\_  
TELEPHONE NUMBER

\_\_\_\_\_  
DATE

**LIVERMORE AMADOR VALLEY TRANSIT AUTHORITY  
A CERTIFICATION CONCERNING CONTROL OF EMPLOYEE  
OF CONTRACTOR**

The contractor, by entering into this Agreement with LAVTA to perform or provide work, services or materials to LAVTA, does hereby certify and assure that in performing the services under this Agreement, the Contractor shall act as an independent contractor and shall have full control of the work and Contractor's employees. Contractor and its employees, under no circumstances whatsoever, shall imply or be considered as an agent(s) or employee(s) of LAVTA. Contractor employees, under no circumstances, shall be entitled to part of any pension plan, insurance, bonus, or any similar benefits which LAVTA provides its own employees.

Any infraction of this Certification shall be cause for termination of this agreement.

Authorized Representative of Proposer

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**IRREVOCABLE LETTER OF CREDIT**

\_\_\_\_\_  
(Date)

Livermore/Amador Valley Transit Authority  
1362 Rutan Court, Suite 100  
Livermore, CA 94550

Re: **Irrevocable Standby Letter of Credit No.**

We hereby issue in your favor this Irrevocable Standby Letter of Credit for the account of

\_\_\_\_\_, a

\_\_\_\_\_  
*(insert nature of organization, whether sole proprietorship, partnership, corporation or joint venture)*, in the amount of **fifty thousand dollars (\$50,000)**, which is available upon your demand when accompanied by a signed statement from an officer of the Livermore/Amador Valley Transit Authority (LAVTA), stating that:

The amount drafted is due to LAVTA because of failure of \_\_\_\_\_  
\_\_\_\_\_ to enter into a written contract awarded to it by LAVTA, or to furnish the requisite bond(s) or insurance certificates within the time and in the manner required by the Contract Documents and Specifications for Contract # \_\_\_\_\_.

We hereby agree with the drawers and/or bona fide holders that drafts drawn and negotiated in conformity with the terms of this Letter of Credit will be duly honored upon presentation when presented on or before \_\_\_\_\_. Partial drawings are permitted.

Except so far as otherwise expressly stated, this credit is subject to the Uniform Customs and Practice for Documentary Credits (1993 Revision) of the International Chamber of Commerce Publication No. 500.

\_\_\_\_\_  
(Financial Institution)

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

EXHIBIT 1

PROPOSED LAVTA AGREEMENT

SAMPLE

THIS AGREEMENT, ("Agreement") made and entered into this \_\_\_ day of \_\_\_, 2017 by and between the **Livermore Amador Valley Transit Authority** (Authority), and \_\_\_\_\_ (Contractor).

**WITNESSETH**

WHEREAS, Authority desires to obtain **Exterior Advertising Services** (Project) and has issued a Request for Proposals dated February 13, 2017 (which is attached hereto and incorporated as Attachment 1); and

WHEREAS, Contractor is qualified and willing to provide said Exterior Advertising Services and has submitted a proposal dated \_\_\_\_\_, 2017 (which is attached hereto and incorporated as Attachment 2).

**NOW, THEREFORE**, Authority and Contractor agree as follows:

**1. RENDITION OF SERVICES**

The Contractor agrees to perform services to Authority in accordance with the terms and conditions of this Agreement.

**2. SCOPE OF SERVICES**

Subject to the terms and conditions set forth in this Agreement, Contractor shall provide the services described in Attachment 1, as supplemented by Attachment 2, except when inconsistent with Attachment 1.

**3. TIME PERIOD**

The term of this agreement shall be from July 1, 2017 to June 30, 2020, inclusive, with an option to extend for up to two additional one-year terms, exercisable at LAVTA's sole discretion. Should LAVTA determine to exercise an option, LAVTA will notify the Contractor of its determination, in writing, at least ninety (90) days prior to the end of the base term or first option term, as applicable.

It is further understood that the base term of the Agreement or any option term(s) granted thereto are subject to the LAVTA's right to terminate the Agreement in accordance with Section 12 of this Agreement.

**4. COMPENSATION AND METHOD OF PAYMENT**

Contractor shall compensate LAVTA in accordance to payment provisions as outlined in Section II – Scope of Work of Attachment A.

Payments shall be made to Authority as follows:

Accounts Receivable  
Livermore/Amador Valley Transit Authority

1362 Rutan Court  
Suite 100  
Livermore, CA 94551

Contractor represents that Contractor's taxpayer identification number (TIN) is as evidenced by a completed Federal Form W-9.

**5. CONTRACTOR'S KEY PERSONNEL**

It is understood and agreed by the parties that at all times during the term of this Agreement that \_\_\_\_\_ shall serve as the primary staff person of Contractor to undertake, render, and oversee all of the services under this Agreement. Upon written notice by the Contractor and approval by the Authority, which will not be unreasonably withheld, the Contractor may substitute this person with another person, who may possess similar qualifications and experience for this position.

**6 CHANGES**

Authority may, at any time, by written order, make changes within the Scope of Work and services described in this Agreement. If such changes cause an increase in the budgeted cost of or the time required for performance of the agreed upon work, an equitable adjustment as mutually agreed shall be made in the limit on compensation as set forth in Section 3. In the event that the Contractor encounters any unanticipated conditions or contingencies that may affect the scope of work or services, schedule, or the amount of compensation specified herein, Contractor shall so advise Authority immediately upon notice of such condition or contingency. The written notice shall explain the circumstances giving rise to the unforeseen condition or contingency and shall set forth the proposed adjustment in schedule or compensation. This notice shall be given to the Authority prior to the time that Contractor performs work or services related to any proposed adjustment. The pertinent changes shall be expressed in a written supplement to this Agreement prior to implementation of such changes.

**7. CONTRACTOR'S STATUS**

Contractor is an independent contractor and not an employee or agent of Authority and has no Authority to contract or enter into any other agreement in the name of Authority. Contractor has, and hereby retains, full control over the employment, direction, compensation and discharge of all persons employed by Contractor who are assisting in the performance of services under this Agreement. Contractor shall be fully responsible for all matters relating to the payment of its employees, including compliance with social security, withholding tax and all other laws and regulations governing such matters. Contractor shall be responsible for its own acts and those of its agents and employees during the term of this Agreement.

**8. INDEMNIFICATION**

To the maximum extent permitted by law, Contractor shall defend, indemnify and hold harmless Authority, its directors, officers, agents and employees from all claims, demands, suits, loss, damages, injury and liability, direct or indirect (including any and all costs and expenses in connection therewith) (collectively "Liability"), that arise out of, pertain to, or relate to the negligence, recklessness, or intentional misconduct of Contractor, its officers, agents, employees and subcontractors/subcontractors or any of them. This obligation shall not apply to Liability that arising from the sole negligence or willful misconduct of Authority. Except as provided above, Contractor will indemnify and defend Authority notwithstanding any alleged or actual passive negligence of Authority which may have contributed to the Liability. In the event any aspect of the foregoing provision is found to be void or unenforceable, a court shall interpret this provision to give the maximum protection available to the Authority under applicable law. This provision will survive termination or expiration of the Agreement.

**9. MAINTENANCE, AUDIT, AND INSPECTION OF RECORDS**

All Contractor and subcontractors costs incurred in the performance of this Contract will be subject to audit. Contractor and its subcontractors shall permit LAVTA, or its authorized representatives to inspect, examine, make excerpts from, transcribe, and copy Contractor's books, work, documents, papers, materials, payrolls records, accounts, and any and all data relevant to the Agreement at any reasonable time, and to audit and verify statements, invoices, or bills submitted by the Contractor pursuant to this Agreement. The Contractor shall also provide such assistance as may be required in the course of such audit. Contractor shall retain these records and make them available for inspection hereunder for a period of four (4) years after expiration or termination of the Agreement.

If, as a result of the audit, it is determined by LAVTA's auditor or staff that reimbursement of any costs including profit or fee under this Contract was in excess of that represented and relied upon during price negotiations or represented as a basis for payment, the Contractor agrees to reimburse LAVTA for those costs within sixty (60) days of written notification by LAVTA.

**10. DATA TO BE FURNISHED BY AUTHORITY--CONFIDENTIALITY**

All data, reports, surveys, studies, drawings and any other documents and materials made available to Contractor by Authority for use by Contractor in the performance of its services under this Agreement shall be made available for information only and shall be returned to Authority at the completion or termination of this Agreement.

Any LAVTA materials to which the Contractor has access or materials prepared by the Contractor during the course of this Agreement ("confidential information") shall be held in confidence by the Contractor, who shall exercise all reasonable precautions to prevent the disclosure of confidential information to anyone except the officers, employees and agents of the Contractor as necessary to accomplish the rendition of services required by this Agreement.



Contractor shall not release any reports, information or promotional materials prepared in connection with this Agreement, whether deemed confidential or not, to any third party without the approval of the LAVTA.

**11. OWNERSHIP OF WORK**

- A. All communications and records originated, prepared, and in the process of being prepared, for the services to be performed by Contractor under this Agreement, including, but not limited to, findings, analyses, submittals, conclusions, opinions, engineering drawings, specifications, standards, process sheets, photographs, videos, manuals, technical reports and recommendations with respect to the subject matter of this Agreement and raw and underlying data of such materials, regardless of format or media, including software, reports and other documentation (all of the foregoing, collectively, the "Work Product"), shall be delivered to and become the property of LAVTA. LAVTA shall be entitled to access and to copy the Work Product during the progress of the Work. Any Work Product remaining in the hands of Contractor or in the hands of any subcontractor/subcontractor upon completion or termination of the work shall be immediately delivered to LAVTA and not later than within two (2) weeks of completion or termination of the Work. If any materials are lost, damaged, or destroyed before final delivery to LAVTA, Contractor shall replace them at its own expense, and Contractor assumes all risk of loss, damage, or destruction of or to such materials.
- B. Any specific knowledge of LAVTA proprietary information gained as a result of this Agreement shall be used exclusively to accomplish the Scope of Work outlined above and for no other purpose.
- C. Any and all rights of copyright to Work Product prepared under this Agreement are hereby assigned to LAVTA. Contractor agrees to execute any additional documents that may be necessary to evidence such assignment. Contractor agrees not to assert any rights at common law or equity and not to establish any claim to statutory copyright in such Work Product. Except for its own internal use, Contractor shall not publish or reproduce such Work Product in whole or in part, or in any manner or form, nor authorize others to do so, without the written consent of LAVTA
- D. Notwithstanding anything herein to the contrary, LAVTA acknowledges that as part of Contractor's provision of work hereunder, Contractor may utilize proprietary works of authorship including, without limitation, software, methodologies, tools, specifications, drawings, sketches, models, samples, records and documentation, as well as copyrights, trademarks, service marks, ideas, concepts, know-how, techniques, knowledge or data, that have been originated or developed by Contractor or by third parties under Agreement to, or which have been purchased by, Contractor (all of the foregoing, collectively, "Contractor's Information"). LAVTA agrees that Contractor's Information is and shall remain the sole property of Contractor or such third party. Contractor agrees that LAVTA shall be entitled to use Contractor's Information in connection with this Agreement, and shall grant to LAVTA a perpetual, royalty-free, irrevocable, worldwide, non-exclusive license to use all Contractor's

Information and to create and use derivative works of Contractor's Information in connection with this Agreement.

- E. Contractor represents and warrants that it has or will have all appropriate licenses, agreements, and/or ownership pertaining to all intellectual property, including but not limited to patents and copyrights, used in connection with the performance of its obligations under this Agreement. Contractor further represents and warrants that it will have all necessary rights to patentable and copyrightable materials, equipment, devices or processes not furnished by LAVTA used on or incorporated in the work and assumes all risks arising from the use of such patentable and copyrightable materials, equipment, devices, or processes.
- F. Contractor shall indemnify, defend and hold harmless LAVTA, its directors, officers, agents and employees to the maximum extent permitted by law from and against any and all claims, liabilities, losses, damages or expenses (including attorneys' fees and related costs, whether or not litigation has commenced), whether direct or indirect, arising out of, relating to, or in connection with the ownership, possession or use of any materials, equipment, devices, or processes that are protected by intellectual property rights, including patent, copyright and trade secret. In case such materials, equipment, devices or processes are held to constitute an infringement and their use enjoined, Contractor, at Contractor's sole cost and expense, shall: (a) secure for LAVTA the right to continue using the materials, equipment, devices or processes by suspension of the injunction or by procuring a royalty-free license or licenses, or (b) replace such materials, equipment, devices, or processes with non-infringing materials, equipment, devices or processes that perform the same functions as the infringing item, or (c) modify them so that they become non-infringing or remove the enjoined materials, equipment, devices or processes and refund the sums paid therefore, without prejudice to any other rights of LAVTA. If the amount of time necessary to proceed with one of these options is deemed excessive by LAVTA, LAVTA may direct Contractor to select another option or risk default.

## **12. TERMINATION**

LAVTA shall have the right to suspend or terminate this Agreement at any time by giving written notice to the Contractor. Upon receipt of such notice, the Contractor shall not commit itself to any further expenditure of time or resources.

If the Agreement is suspended or terminated for any reason other than a default by Contractor, LAVTA shall pay to Contractor all sums actually due and owing from LAVTA for all services performed and all expenses incurred up to the day written notice of effective date of suspension or termination is given, plus any costs LAVTA determines are reasonably and necessarily incurred by Contractor to effect such suspension or termination. If the Agreement is terminated for default, LAVTA shall remit final payment to Contractor in an amount to cover only those services performed and expenses incurred in full accordance with the terms and conditions of this Agreement up to the effective date of termination.

**13. SUBCONTRACTS**

Contractor shall not subcontract all or any portion of its services under this Agreement without the prior written approval of the Authority, and any attempt thereat shall be void and unenforceable. In the event that Contractor enters into one or more subcontracts pursuant to this article, it is understood and agreed that the participating subcontractors shall be solely and directly responsible to Contractor, and Authority shall have no obligation to them.

**14. ASSIGNMENT OF AGREEMENT**

Contractor shall not assign this Agreement or any part thereof without prior express written consent of Authority, and any attempt thereat shall be void and unenforceable.

**15. NOTICES**

Except for invoices submitted by Contractor pursuant to Article 4, all notices or other communications to either party by the other shall be deemed given when made in writing and delivered or mailed to such party at their respective addresses as follows:

To Authority:

Executive Director  
Livermore/Amador Valley Transit Authority  
1362 Rutan Court  
Suite 100  
Livermore, CA 94551

To Contractor :

**16. NON DISCRIMINATION**

Contractor (and any subcontractors) shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. Contractor (and any subcontractors) shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by Contractor (and any subcontractors) to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as Authority deems appropriate.

**17. EQUAL EMPLOYMENT OPPORTUNITY**

In connection with the performance of this Agreement, Contractor shall not discriminate against any employee or applicant for employment, because of race, religion, color, sex, disability or national origin. Contractor shall take affirmative actions to ensure that applicants are employed, and that employees are treated

during their employment, without regard to their race, religion, color, sex, disability, gender identify, or national origin. Such actions 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 insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

**18. LAWS AND REGULATIONS**

Contractor shall comply with its standard of care with regard to any and all laws, statutes, ordinances, rules, regulations and procedural requirements of any national, state or local government and of any agency of such government, including Authority, which relate to or in any manner affect the performance of this Agreement. This Agreement and any related documents supplied hereunder are subject to the California Public Records Act.

**19. CHOICE OF LAW**

All questions pertaining to the validity and interpretation of this Agreement shall be determined in accordance with the laws of California applicable to agreements made and to be performed within the state.

**20. FORCE MAJEURE**

It is expressly agreed that if the Contractor shall be delayed or interrupted in the performance or completion of its work hereunder by any act, neglect or default of the Authority, or of any employee of the owner, or of any other contractor employed by the Authority, or by an embargo, war, fire, flood, earthquake, epidemic or other calamity, act of God or of the public enemy, governmental act (including, but not restricted to, any government priority, preference, requisition, allocation, interference, restraint or seizure, or the necessity of complying with any governmental order, directive, ruling or request) or by any strike or labor dispute involving the Authority, or any manufacturer, supplier or carrier of the machinery, materials or supplies required hereunder, then the time of completion specified herein shall be extended for a period equivalent to the time lost as a result thereof.

**21. ENTIRE AGREEMENT**

This Agreement is the entire agreement of the parties. Contractor represents that in entering into this Agreement, it has not relied on any previous representations, inducements or understandings of any kind or nature.

**22. SEVERABILITY**

If any provision, or any portion of any provision, of any contract resulting from this proposal shall be held invalid, illegal or unenforceable, the remaining provisions or portions of any provisions shall be valid and enforceable to the extent possible.

**23. BENEFIT OF AGREEMENT**

This Agreement shall bind and benefit the parties hereto and their heirs, successors and permitted assigns.

**24. ATTORNEY'S FEES AND OTHER FEES**

Should either party institute any action to enforce this Agreement, or any provision hereof, the prevailing party in any such action or proceeding shall be entitled to receive from the other party all costs and expenses, including reasonable attorney's fees.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the day and year first written above.

**THE LIVERMORE AMADOR VALLEY  
TRANSIT AUTHORITY**

\_\_\_\_\_  
Executive Director

Date: \_\_\_\_\_

\_\_\_\_\_  
By\*

\_\_\_\_\_  
Title

\_\_\_\_\_  
By\*

\_\_\_\_\_  
Title

Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Attorney for the Authority

\*If Contractor is a corporation, two corporate officers must sign on behalf of the corporation as follows: (1) Chairman of the Board, President, or Vice President; and (2) Secretary, Assistant Secretary, Chief Financial Officer, or Assistant Financial Officer. In the alternative, this Contract may be executed by a single officer or a person other than an officer provided that evidence satisfactory to LAVTA is provided, demonstrating that such individual is authorized to bind the corporation (e.g., a copy of a certified resolution from the corporation's board or a copy of the corporation's by laws).

SAMPLE

LAVTA Fleet in FY2017

Current Fleet Roster

	Bus #	Make	Size	Rapid Bus?	Wi-Fi?	Type of Advertising Permitted
1	0903	Gillig Hybrid	40	yes	yes	Below Window, Wi-Fi
2	0904	Gillig Hybrid	40	yes	yes	Below Window, Wi-Fi
3	0905	Gillig Hybrid	40	yes	yes	Below Window, Wi-Fi
4	0906	Gillig Hybrid	40	yes	yes	Below Window, Wi-Fi
5	0907	Gillig Hybrid	40	yes	yes	Below Window, Wi-Fi
6	0908	Gillig Hybrid	40	yes	yes	Below Window, Wi-Fi
7	0909	Gillig Hybrid	40	yes	yes	SPARE THE AIR
8	0910	Gillig Hybrid	40	yes	yes	Wi-Fi ONLY
9	0911	Gillig Hybrid	40	yes	yes	Wi-Fi ONLY
10	0912	Gillig Hybrid	40	yes	no	SPARE THE AIR
11	0913	Gillig Hybrid	40	yes	yes	Wi-Fi ONLY
12	0914	Gillig Hybrid	40	yes	yes	Wi-Fi ONLY
13	0312	Gillig	40	no	no	Any
14	0314	Gillig	40	no	no	Any
15	0315	Gillig	40	no	no	Any
16	0316	Gillig	40	no	no	Any
17	0318	Gillig	40	no	no	Any
18	0319	Gillig	40	no	no	Any
19	0320	Gillig	40	no	no	Any
20	0321	Gillig	40	no	no	Any
21	0322	Gillig	40	no	no	Any
22	0323	Gillig	40	no	no	Any
23	0324	Gillig	40	no	no	Any
24	0325	Gillig	40	no	no	Any
25	0327	Gillig	40	no	no	Any
26	0330	Gillig	40	no	no	Any
27	0331	Gillig	40	no	no	Any
28	0332	Gillig	40	no	no	Any
29	0334	Gillig	40	no	no	Any
30	301	Gillig	29	no	no	Any
31	302	Gillig	29	no	no	Any
32	303	Gillig	29	no	no	Any
33	304	Gillig	29	no	no	Any
34	305	Gillig	29	no	no	Any
35	306	Gillig	29	no	no	Any
36	308	Gillig	29	no	no	Any
37	310	Gillig	29	no	no	Any
38	701	Gillig Hybrid	29	no	no	Below Window
39	702	Gillig Hybrid	29	no	no	SPARE THE AIR
40	0901	Gillig Hybrid	29	yes	yes	Below Window, Wi-Fi
41	0902	Gillig Hybrid	29	yes	yes	Wi-Fi ONLY
42	1101	Gillig Hybrid	29	no	no	Below Window
43	1102	Gillig Hybrid	29	no	no	SPARE THE AIR
44	1103	Gillig Hybrid	29	yes	yes	Below Window, Wi-Fi
45	1104	Gillig Hybrid	29	yes	yes	Wi-Fi ONLY
46	1601	Gillig	35	Yes	Yes	Below Window, Wi-Fi
47	1602	Gillig	35	Yes	Yes	Below Window, Wi-Fi
48	1603	Gillig	35	Yes	Yes	Below Window, Wi-Fi
49	1604	Gillig	35	Yes	Yes	Wi-Fi ONLY
50	1605	Gillig	35	Yes	Yes	Wi-Fi ONLY
51	1606	Gillig	35	Yes	Yes	Wi-Fi ONLY
52	1607	Gillig	35	Yes	Yes	Wi-Fi ONLY
53	1608	Gillig	35	no	no	Below Window
54	1609	Gillig	35	no	no	Below Window
55	1610	Gillig	35	no	no	Below Window
56	1611	Gillig	40	no	no	Below Window
57	1612	Gillig	40	no	no	SPARE THE AIR
58	1613	Gillig	40	no	no	SPARE THE AIR
59	1614	Gillig	40	no	no	SPARE THE AIR
60	1615	Gillig	40	commuter w/ Wi-Fi	Yes	Below Window, Wi-Fi
61	1616	Gillig	40	commuter w/ Wi-Fi	Yes	Below Window, Wi-Fi
62	1617	Gillig	40	commuter w/ Wi-Fi	Yes	Below Window, Wi-Fi
63	1618	Gillig	40	commuter w/ Wi-Fi	Yes	Wi-Fi ONLY
64	1619	Gillig	40	commuter w/ Wi-Fi	Yes	Wi-Fi ONLY
65	1620	Gillig	40	commuter w/ Wi-Fi	Yes	Wi-Fi ONLY

2017 Bus order - In service as of September 2017

	Bus # (expected)	Make	Size	Rapid Bus?	Wi-Fi?	Type of Advertising Permitted
1	1701	Gillig	40	no	no	Below Window
2	1702	Gillig	40	no	no	Below Window
3	1703	Gillig	40	no	no	Below Window
4	1704	Gillig	40	no	no	Below Window
5	1705	Gillig	40	no	no	Below Window
6	1706	Gillig	40	no	no	None
7	1707	Gillig	40	no	no	None
8	1708	Gillig	40	no	no	None
9	1709	Gillig	40	no	no	None
10	1710	Gillig	40	commuter w/ Wi-Fi	Yes	Wi-Fi ONLY
11	1711	Gillig	40	no	no	None
12	1712	Gillig	29	no	no	Below Window
13	1713	Gillig	29	no	no	Below Window
14	1714	Gillig	29	no	no	Below Window
15	1715	Gillig	29	no	no	Below Window
16	1716	Gillig	29	no	no	Below Window
17	1717	Gillig	29	no	no	None
18	1718	Gillig	29	no	no	None
19	1719	Gillig	29	no	no	None
20	1720	Gillig	29	no	no	None

Advertising Opportunities	
Advertising Type	Number of Vehicles
Wi-Fi	28
Below the Window	30

To be retired in September 2017  
 Spare the Air Wraps  
 Advertising Available

**Exhibit 3**  
**Wi-Fi SPONSORSHIP PACKAGE**



## Wi-Fi Sponsorship Package

LAVTA is seeking sponsors to provide dedicated funding support for Wheels' new high speed Wi-Fi on premium Express and Rapid buses. The proposed strategy describes the approach to identify, select, and contract with a sponsor who will subsidize ongoing service costs of the Wi-Fi in exchange for sponsorship rights to a total of 28 Wheels Rapid and Express buses.

The Wi-Fi Sponsorship Strategy was valued based upon four criteria:

1. Quantitative Benefits: Measurable audience that travels through Tri-Valley.
2. Qualitative Benefits: The intangible benefits of the sponsorship such as increasing sponsor awareness, impressions, loyalty to the sponsor's products or services, and the sponsor's commitment to community.
3. Geographic and Demographic Reach: The significance of the Tri-Valley's diverse location and population.
4. Cost Benefit Ratio and Value: Sponsorships deliver soft value, meaning greater credibility than paid advertising. The cost benefit ratios of sponsorships are 2 to 1 meaning every dollar allocated to a sponsorship generates \$2 dollars in quantitative and qualitative value.

LAVTA recommends offering the following levels of sponsorship opportunities:

1. Exclusive Service Sponsorship: Includes recognition on 28 rapid and express buses and Wheels bus supportive media including the sponsors logo on the top hub of the buses, interior bus cards and recognition on the Wi-Fi splash page which riders will see when they log on the free Wi-Fi on the bus. LAVTA will also provide other recognition of the sponsor in its communications that the agency controls such as its website, news releases, and Wi-Fi landing page.
2. Partial Service Sponsorship: Includes sponsorship rights as mentioned above on 14 buses and Wheels bus supportive media highlighted in the Exclusive Service Sponsorship above.

To ensure maximum exposure for sponsors, LAVTA will stage a press release and news event to announce all sponsorship agreements and the enhancement of services implemented to the new fleet.

Potential Sponsor list:

- Kaiser Permanente
- Kaiser Foundation
- Golden State Warriors
- Livermore Wineries
- Sutter Health
- Stanford Healthcare
- Las Positas College

- San Francisco Premium Outlets
- Stoneridge Mall
- Oakland Raiders
- Pacific Gas & Electric Company and others

A graphic of the approximate size and location of the Wi-Fi Sponsorship Advertising is shown on the following page.

Wi-Fi Sponsorship Placement

