

MEMORANDUM OF UNDERSTANDING
BETWEEN
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
AND
THE CITY OF LOS ANGELES, HARBOR DEPARTMENT
FOR
THE METRO COUNTYWIDE BIKE SHARE PROGRAM EXPANSION

This Memorandum of Understanding, _____ (the "MOU") is effective this ____ day of _____, 2016 (the "Effective Date"), by and between the Los Angeles County Metropolitan Transportation Authority ("LACMTA") and the City of Los Angeles, Harbor Department (the "Department"), each individually a "Party" and collectively the "Parties".

RECITALS

WHEREAS, LACMTA and the Department desire to provide mobility options for visitors to the Wilmington and San Pedro Waterfronts, expand the Countywide Bike Share Program (the "Program") to improve mobility and access to jobs throughout Los Angeles County, and expand the Program to serve the Wilmington and San Pedro Waterfronts (the "Project") comprised of approximately 11 stations and 120 bicycles;

WHEREAS, LACMTA has been working with the LACMTA Countywide Bike Share Working Group since January 2014 to develop an implementation plan for a Regional Bike Share System. The Working Group is comprised of cities that desire to participate in the Regional Bike Share System;

WHEREAS, the Program will increase transportation choices for Los Angeles County workers, students, residents and tourists by making the LACMTA transit system a more viable alternative to driving by providing a first/last mile and short-trips solution. The Program will facilitate reductions in vehicle miles traveled, foster increased environmental sustainability and encourage more active life styles overall throughout Los Angeles County;

WHEREAS, LACMTA and the City of Los Angeles have tested the viability of the Program on a smaller scale through the LACMTA Countywide Bike Share - Downtown Los Angeles Pilot (the "Pilot");

WHEREAS, On January 29, 2015, the LACMTA Board of Directors ("LACMTA Board") authorized funding for the Countywide Bike Share Program as follows: (1) LACMTA will be responsible for up to 50% of capital costs and the Department will be responsible for at least 50% of capital costs, and (2) LACMTA will be responsible for 35% of net operation and maintenance costs and the Department will be responsible for 65% of net operations and maintenance costs for the duration of the Project.

WHEREAS, LACMTA has entered into a contract with the bike share contractor Bicycle Transit Systems (BTS) (the "Contractor") who will manufacture, install, operate, and maintain a bike share system (the "System"), including but not limited to bicycles, bicycle stations, and ITS hardware/software and payment kiosks (collectively, the "Bike Share Stations") to be located at various locations throughout the County of Los Angeles.

WHEREAS, on October 27, 2016, the LACMTA Board will exercise an option with BTS to expand the Program to include Bike Share Stations at eleven (11) new locations within the Department's jurisdiction ("Bike Share Locations");

WHEREAS, LACMTA and the Department have agreed that neither Party will seek reimbursement from the other for staff time used to complete the Project with the exception of potential permit fees required to provide the Bike Share Locations for Bike Share Stations;

WHEREAS, upon conclusion of the Project, as specified in Article 2 of this MOU, (or earlier than conclusion of Project, if approved by the LACMTA Board and the Department's Board of Harbor Commissioners ("BOHC")) and subject to approval by the LACMTA Board and the Department's BOHC, the Parties will have the option to expand the Project;

NOW, THEREFORE, it is mutually understood and agreed by LACMTA and the Department as follows:

ARTICLE 1. COMPLETE AGREEMENT

This MOU, including all exhibits and documents incorporated herein and made applicable by reference, constitutes the complete and exclusive statement of the terms and conditions of the MOU between LACMTA and the Department concerning the Project and supersedes all prior representations, understandings, and communications between the parties. The above-referenced Recitals are true and correct and are incorporated by reference herein.

ARTICLE 2. EFFECTIVE DATE AND TERM

This Agreement shall become effective on the date of its approval by the City Council of Los Angeles ("Council") pursuant to Section 606 of the Los Angeles City Charter and the LACMTA Board of Directors, and execution by the Executive Director of the Harbor Department ("Executive Director") and Chief Executive Officer of the LACMTA ("Chief Executive Officer").

The term of this MOU shall be for three (3) years commencing on the Effective Date unless sooner terminated in accordance with this MOU.

Parties shall have the option to extend the term of this Agreement for one renewal period of three (3) years, for a total Agreement term not to exceed six (6) years from the Effective Date. Exercise of the option to renew shall be by mutual written consent from the Executive Director and the Chief Executive Officer not later than ninety (90)-days prior to the expiration of the current term of the Agreement.

Either party may terminate this MOU for convenience at any time by giving the other party sixty (60) days written notice thereof. Upon receipt of said notice, the party receiving notice shall immediately take action not to incur any additional obligations, costs or expenses, except as may be reasonably necessary to terminate the activities.

If LACMTA plans to discontinue the Program, it will provide Department at least sixty (60) days advance written notice prior to discontinuation of the Program.

ARTICLE 3: OWNERSHIP

LACMTA is the owner of the System once the equipment has been purchased.

In the event LACMTA were to terminate the Program, Department shall have right of first refusal to take ownership over all physical improvements and equipment located in the Project area.

ARTICLE 4. TERMINATION DUE TO NON-APPROPRIATION OF FUNDS

The obligation for the Department and LACMTA to provide funds for the Project is subject to sufficient funds being made available for the Project by the LACMTA Board of Directors and the BOHC. If such funds are not made available for the Project by either party, the Department and/or LACMTA shall have no obligation to provide the funds for the Project, unless otherwise agreed to in writing by the Department and/or LACMTA.

Notwithstanding the cost sharing ratios in Article 5 and Article 6, the party that has not appropriated funds to the Project shall be 100% responsible for Capital Costs and/or Operation and Maintenance Costs, as defined in Sections 5 and 6 below, associated with turning off and restarting the Project.

ARTICLE 5. CAPITAL COSTS

- A. The parties shall share equally in the costs of purchasing from Contractor all capital assets necessary to create the System for the Project within the Harbor District, including but not limited to: bicycles, bicycle stations,, ITS hardware/software and payment kiosks if applicable (the "Capital Costs").
- B. LACMTA shall be the sole owner of the System.

ARTICLE 6. OPERATIONS AND MAINTENANCE

- A. Operations and Maintenance ("O&M") services will be performed by the Contractor. O&M services include but are not limited to: Collecting membership and user fees, marketing and promotion for the Program to the public, maintaining/repairing the bicycle fleet, station equipment, and payment kiosks where applicable, rebalancing the fleet, hosting and managing ITS software needs for the System, providing support to the Parties for education and outreach, operating a Customer Service Call Center (Tel. 844.857.BIKE). The Services are more thoroughly defined in the contract and its modifications with Contractor arising from RFP No. PS 11357, attached upon execution hereto as Exhibit B for reference.
- B. Contractor will bill LACMTA directly for the O&M services as required under the Contractor contract.
- C. LACMTA and the Department agree to share in the cost of O&M services related to the eleven (11) locations in the Harbor District as follows:
 - 1. The total cost of O&M services will be reduced by any Bike Share User Revenues generated by the Project as described below in Article 11 (the "Net O&M Costs").
 - 2. LACMTA will be responsible for paying 35% of the Net O&M Costs.
 - 3. The Department will be responsible for paying 65% of the Net O&M Costs.

4. Any waived permit fees or additional fees associated with the preparation for the Project will be credited towards the Department's 65% share of the Net O&M Costs.
5. Upon receipt of an acceptable invoice from the Contractor for the Net O&M Costs, LACMTA will pay Contractor and bill the Department for its 65% share of the Net O&M Costs.

ARTICLE 7. COST SHARE

LACMTA and Department will share costs as follows:

- A. LACMTA will be responsible for 50% of Capital Costs and the Department will be responsible for 50% of Capital Costs associated with construction and installation of the System in the Harbor District as identified in Exhibit A.
- B. LACMTA will be responsible for 35% of the Net O&M Costs and the Department will be responsible for 65% of the Net O&M Costs associated with the System in the Harbor District as identified in Exhibit A for the duration of the Project.
- C. The maximum payable under this Agreement for Capital Costs shall be Six Hundred Sixty Nine Thousand Two Hundred Eighty Dollars (\$669,280). The maximum payable under this Agreement for Operation and Maintenance Costs shall be Two Million Seven Hundred Fifty Six Thousand Eight Hundred Fifty Dollars (\$2,756,850).
- D. Neither LACMTA nor the Department shall seek reimbursement from the other for staff time used during the Capital implementation or for Operations and Maintenance of the Project.

ARTICLE 8. RESPONSIBILITIES OF THE DEPARTMENT

The Department agrees to the following responsibilities for the Project:

- A. To pay LACMTA within 60 calendar days of receipt of an acceptable invoice and copies of relevant supporting documentation for the Department's share of Capital Costs as described in Article 5, above.
- B. To pay LACMTA or contest within 60 calendar days of receipt of an acceptable invoice and copies of relevant supporting documentation for the Department's share of Net O&M Costs as described in Article 6, above.

- C. The Department shall have 60 calendar days to pay or contest an invoice for Capital Costs or O&M Costs. If no payment or contest of an invoice is received within 60 calendar days then the Department shall be in breach of this MOU.
- D. Department shall provide LACMTA locations at no cost to LACMTA, that are within the Harbor District, that have flat, concrete finished surfaces (sloped to drain), or similar, and that are ready to receive the LACMTA's Bike Share Stations.
- E. Department shall provide 11 Bike Share Locations within the City of Los Angeles, Harbor District to LACMTA for Bike Share Stations. All Bike Share Locations shall be appropriately sized to meet the Contractor's specifications without the need for improvements and will be solar or battery powered. Bike Share Locations should be made available no later than 6 months after the Effective Date.
- F. Department shall waive any permit fees within the Department's control associated with a Bike Share Location on Department-owned property; provided however, the amount of any such permit fees will be credited towards the Department's 65% share of Net O&M Costs. Department shall provide invoices and/or back-up documentation to support such permit fees associated with a Bike Share Location.
- G. At no cost to Contractor or LACMTA, Department shall provide Contractor with any necessary leases, licenses or other agreements which allows for the construction and operation of Bike Share Stations ("Licenses") upon Department-owned Bike Share Locations. If a selected Bike Share Location does not meet Contractor's specification, Contractor shall have the right to refuse to enter into the License and will not be required to install a Bike Share Station at said location. Department will be responsible for finding a suitable replacement Bike Share Location.
- H. To attend periodic coordination meetings as reasonably requested by the LACMTA project manager.
- I. To bear its own internal staff costs incurred in connection with the Project.
- J. In the event Department terminates this MOU prior to the date of expiration, Department shall bear the cost of removal of equipment.

ARTICLE 9. RESPONSIBILITIES OF LACMTA

LACMTA agrees to the following responsibilities for the Project:

- A. LACMTA is the owner of the System and Contractor will supply, operate, and maintain the System. LACMTA is responsible for issuing and managing the contract with the Contractor;
- B. To act as the lead agency for the Project.
- C. To manage contract for and pay for Contractor's services consistent with LACMTA's policies and procedures in consultation with the Department and Countywide Bike Share Working Group to provide review and oversight of Contractor to ensure adherence to Project schedule, quality, budget, and overall adherence to the contract and its modifications with Contractor, attached upon execution hereto as Exhibit B for reference.
- D. To consult with the Department and the Countywide Bike Share Working Group in regards to management of the Contractor, including cost control, reviewing Contractor invoices, and ensure that all invoicing by LACMTA is done in compliance with Generally Accepted Accounting Principles (GAAP), all applicable provisions of federal, state, and local laws, statutes, ordinances, rules, regulations, and procedural requirements including Federal Acquisition Regulations (FAR).
- E. To include the Department in regular conversations with the Contractor and sub-contractors and to report costs and revenue for the Department as an individual cost center.
- F. To provide Department annually with an estimated budget for Capital Costs if and when applicable and monthly O&M costs, updated annually.
- G. To bill the Department for Capital Costs as described in Article 5, above.
- H. To bill the Department, monthly, for costs incurred for the Department's share of O&M Costs of the Project, described in Article 6, above.
- I. To be responsible for paying 50% of the Capital Costs for the Project as described in Article 5, above.

- J. To be responsible for paying 35% of the O&M Costs for the Project as described in Article 6, above.
- K. To bear its own internal staff costs incurred in connection with the Project.
- L. To ensure that each Bike Share Station is equipped with an advertisement panel on its payment kiosk ("Ad Panel"). Kiosks are equipped with two panels (see Exhibit C), one will be used for a bike share map and information and the other may be utilized, at the Department's discretion, by the Department for advertisement purposes subject to LACMTA's advertisement policy (see Exhibit D) and the terms of Article 12, below.
- M. In the event that LACMTA dissolves the Bike Share Program, or upon completion of the Project, LACMTA, as owner of the System, shall remove its System at no cost to the Department.
- N. In the event LACMTA terminates this MOU prior to the date of expiration, LACMTA shall bear the cost of removal of equipment.
- O. To provide the Harbor Department the option to upgrade and/or purchase new bicycles if/when LACMTA begins upgrading and/or purchasing new bicycles with updated technology or other latest equipment in other locations. If, however, the Harbor Department's capital costs for upgrading or purchasing new equipment exceeds the 50/50 cost share split pursuant to Article 5, Section A, BOHC approval will be required.

ARTICLE 10: COST OVERRUNS

- A. Capital Costs. Notwithstanding Article 5 above, to the extent that the Project incurs Capital Costs above the estimated amounts in Exhibit A in Article 7 of this MOU, that result from Department's failure to provide suitable locations in a timely manner, Department shall be solely responsible for such additional costs.
- B. Operation and Maintenance. Notwithstanding Article 6 above, to the extent that the Project incurs Operations and Maintenance costs above the estimated amounts in Exhibit A in Article 7 of this MOU, that result from Department's desire to require additional Operations and Maintenance work from Contractor, outside the scope of standard maintenance, Department shall be solely responsible for such additional costs.

ARTICLE 11. BIKE SHARE USER REVENUE

- A. Bike Share User Revenues include but are not limited to fees collected by the Contractor for membership dues and user fees as more fully described in the contract with Contractor arising from RFP No. PS 11357, attached upon execution hereto as Exhibit B for reference.
- B. Bike Share User Revenue will be used to offset the cost of O&M services as described in Article 6, above.
- C. To the extent Bike Share User Revenue generated within the Project exceeds the cost of O&M services, the Parties will jointly determine the use of the excess revenue to be applied within the Department either to capital expansion of the system or support to under-performing stations.
- D. Revenue Reconciliation. The Department will receive credit for its regional share of Bike Share User Revenue for trips that originate within the Department's jurisdiction. Trips that originate in another jurisdiction will be credited to the origin jurisdiction. The Bike Share User Revenues generated within the Department jurisdiction will remain with the Department. The single ride fare, overage fares, and a proportional amount of pass proceeds shall be credited to the Department accordingly.
- E. Department shall coordinate with LACMTA in efforts to integrate the Countywide Bike Share Program with the TAP Fare Payment System.
- F. LACMTA shall consult with the Department and the Countywide Bike Share Working Group before any modifications to the fare structure.

ARTICLE 12. ADVERTISING RIGHTS

- A. LACMTA Naming Rights.
 - 1. LACMTA will retain the naming rights to the title of the System, including the right to sell the name of the System to a sponsor. The title sponsorship may be displayed throughout the System on bicycles, Bike Share Stations, payment kiosks, service vehicles and on any System marketing materials.
 - 2. In addition to title sponsorship, LACMTA will retain the exclusive right to display and sell advertising on bicycles throughout the System.

3. All LACMTA generated advertising and sponsorship revenue described above in this Article 12 will be applied towards LACMTA's share of costs. LACMTA revenue that exceeds LACMTA's share of costs will then be applied towards the Department's share of Net O&M Costs and non-grant funded capital costs.

B. Advertising for Placement on Ad Panels.

1. Subject to the restrictions below, Department shall have the exclusive right to sell advertising for placement on Ad Panels within the Department pursuant to Article 8. The Department (and its advertising vendor) will not have permission to access its Ad Panels for advertisement placement and maintenance. Contractor will be responsible for advertisement placement and maintenance. Department may also advertise Department programs or events on Ad Panels.
2. The Department's advertising rights shall not limit LACMTA's right to sell and place a title sponsor's name on payment kiosks or other System components.
3. All advertising sold or displayed in Ad Panels must meet the requirement of LACMTA's advertising policy, attached as Exhibit C and must be approved by LACMTA Bike Share Project Manager (listed in Article 14) in writing prior to placement.
4. Department does not have the right to place ads in Ad Panels for competitors of the title sponsor.
5. In addition to title sponsorship, LACMTA will retain the exclusive right to display and sell advertising on bicycles throughout the System.
6. All LACMTA generated advertising and sponsorship revenue described above in this Article 11 will be applied towards LACMTA's share of costs. LACMTA revenue that exceeds LACMTA's share of costs will then be applied towards the Department's share of Net O&M Costs and non-grant funded capital costs.
7. All Department generated advertising revenue from the Ad panels will be applied towards the Department's share of costs.

8. A limited number of specially decaled “unicorn” bicycles utilized to promote the Department’s special events may be available for the Project. Contractor will design and decal any such “unicorn” bicycles in coordination with the Department and with final approval from LACMTA.
- C. Marketing. LACMTA will work with the Department in developing all press releases, social media, marketing, outreach and educational material. LACMTA has final approval of said materials. Furthermore, any materials that the Department develops shall be reviewed and approved by LACMTA. Approvals must be obtained in writing by the LACMTA Bike Share Project Manager (listed in Article 14).

ARTICLE 13. COORDINATION WITH OTHER AGENCIES

- A. The Parties acknowledge that the Program may be expanded into other portions of the City of Los Angeles or to other cities within Los Angeles County.
1. Acquisition of additional capital assets will be covered by a separate agreement between LACMTA and the city(s) involved.
 2. In order for the Program to be expanded, the System will require bicycles to travel from one jurisdiction to another within Los Angeles County.
 3. Department shall cooperate with neighboring cities upon expansion of the Program.

ARTICLE 14. NOTICES

All parties notices hereunder and communications regarding the interpretation of the terms of this MOU, or changes thereto, shall be effected by delivery of said notices in person or depositing said notices in the U.S., mail, registered, or certified mail and addressed as follows:

(Continued on next page...)

To The Department:	To LACMTA:
City of Los Angeles, Harbor Department	Los Angeles County Metropolitan Transportation Authority
425 South Palos Verdes Street San Pedro, CA 90731	One Gateway Plaza Los Angeles, CA 90012
Attention: Chief Harbor Engineer	Attention: Avital Shavit CC. Laura Cornejo
Phone: (310) 732-3590	Phone: 213-922-7518
	Email: Shavita@LACMTA.net

ARTICLE 15. INDEMNIFICATION AND INSURANCE

- A. The Department shall indemnify, defend and hold harmless LACMTA, its officers, directors, employees and agents from and against any and all claims (including attorney’s fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, worker’s compensation subrogation claims, damage to or loss of use of property arising from or alleged to be caused by (i) the negligent acts, omissions or willful misconduct by the Department, its officers, directors, employees or agents in connection with or arising out of the performance of this MOU, (ii) breach of this MOU by the Department, its officers, directors, employees and agents.

- B. LACMTA and/or its contractors shall indemnify, defend and hold harmless the Department, its officers, directors, employees and agents from and against any and all claims (including attorney’s fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, worker’s compensation subrogation claims, damage to or loss of use of property arising from or alleged to be caused by (i) the negligent acts, omissions or willful misconduct by LACMTA, its officers, directors, employees or agents in connection with or arising out of the performance of this MOU, or (ii) breach of this MOU by LACMTA, its officers directors employees and agents.

C. The indemnification and defense obligations of this Agreement shall survive its expiration or termination.

D. Acceptable Evidence and Approval of Insurance

Electronic submission is the required method of submitting LACMTA and/or its contractor's insurance documents. LACMTA and/or its contractor's insurance broker or agent shall register with the City's online insurance compliance system **Track4LA™** at <http://track4la.lacity.org/> and submit the appropriate proof of insurance on LACMTA and/or its contractor's behalf.

LACMTA and/or its contractors shall procure and maintain in effect throughout the term of this Agreement, without requiring additional compensation from the City, all insurance as required under Exhibit A of Contract PS272680011357 and its modifications between LACMTA and Bicycle Transit Systems, Inc. Additionally, each policy, except for workers compensation, shall include an additional insured endorsement (CG 2010 or equivalent) naming the "City of Los Angeles, Harbor Department, its officers, agents and employees, 425 South Palos Verdes Street, San Pedro, CA 90731" as Primary additional insureds.

ARTICLE 16. STATE TIDELANDS ACT, GRANTS AND TRUSTS

This Agreement is entered into in furtherance of and as a benefit to the State Tidelands Grant and the trust created thereby. Therefore, this Agreement is at all times subject to the limitations, conditions, restrictions and reservations contained in and prescribed by the Act of the Legislature of the State of California entitled "An Act Granting to the City of Los Angeles the Tidelands and Submerged Lands of the State Within the Boundaries of Said City," approved June 3, 1929 (Stats. 1929, Ch. 651), as amended, and provisions of Article VI of the Charter of the City of Los Angeles relating to such lands. LACMTA agrees that any interpretation of this Agreement and the terms contained herein must be consistent with such limitations, conditions, restrictions and reservations.

ARTICLE 17. AFFIRMATIVE ACTION

LACMTA and/or its contractors, during the performance of this MOU, shall not discriminate in its employment practices against any employee or applicant for employment because of employee's or applicant's race, religion, national origin, ancestry, sex, age, sexual orientation, disability, marital status, domestic partner status, or medical condition. The provisions of Section 10.8.4 of the Los Angeles Administrative Code shall be incorporated and made a part of this Agreement. All subcontracts awarded shall contain a like nondiscrimination provision. See Exhibit E.

ARTICLE 18. CONSTRUCTION OF AGREEMENT

This Agreement shall not be construed against the party preparing the same, shall be

construed without regard to the identity of the person who drafted such and shall be construed as if all parties had jointly prepared this Agreement and it shall be deemed their joint work product; each and every provision of this Agreement shall be construed as though all of the parties hereto participated equally in the drafting hereof; and any uncertainty or ambiguity shall not be interpreted against any one party. As a result of the foregoing, any rule of construction that a document is to be construed against the drafting party shall not be applicable.

ARTICLE 19. TITLES AND CAPTIONS

The parties have inserted the Article titles in this Agreement only as a matter of convenience and for reference, and the Article titles in no way define, limit, extend or describe the scope of this Agreement or the intent of the parties in including any particular provision in this Agreement.

ARTICLE 20. WAIVER

A failure of any party to this Agreement to enforce the Agreement upon a breach or default shall not waive the breach or default or any other breach or default. All waivers shall be in writing.

ARTICLE 21. EXHIBITS; ARTICLES

All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement, whether or not actually attached. To the extent the terms of an exhibit conflict with or appear to conflict with the terms of the body of the Agreement, the terms of the body of the Agreement shall control. References to Articles are to Articles of this Agreement unless stated otherwise.

ARTICLE 22. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute together one and the same instrument.

ARTICLE 23. MISCELLANEOUS:

All parties agree to the following responsibilities and understanding regarding the Project:

- A. California law shall govern this MOU. If any provision of this MOU is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way, unless any of the stated purposes of the MOU would be defeated.

- B. No Amendment, modification alteration or variation of the terms of this MOU shall be valid unless made in writing and signed by authorized representatives for the Parties hereto and no oral understanding or agreement not incorporated herein shall be binding on the Parties.
- C. This MOU and all attachments hereto, contains the entire understanding between the Parties and supersedes any prior written or oral understanding and agreements regarding the subject matter of the MOU.
- D. The covenants and agreements of this MOU shall inure to the benefit of, and shall be binding upon, each of the Parties and their respective successors and assignees.
- E. Both parties shall comply with all applicable laws, regulations and policies.
- F. Neither Party will assign this MOU, or any part thereof, without the written consent of the other Party. Any assignment without such written consent shall be void and unenforceable.

(Signature page to follow)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first above written.

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

By: _____ Date: _____
 Phillip A. Washington
 Chief Executive Officer

APPROVED AS TO FORM:

MARY C. WICKHAM
 County Counsel

By: _____ Date: _____
 _____, Deputy

THE CITY OF LOS ANGELES, by its Board of Harbor Commissioners

By: _____ Date: _____
 EUGENE D. SEROKA
 Executive Director

APPROVED AS TO FORM:

MICHAEL N. FEUER, City Attorney
 JANNA B. SIDLEY, General Counsel

By: _____ Date: 10-13-16
 Minah Park, Deputy

Account#	SEE RIGHT	W.O. #	111111
Ctr/Div#	SEE RIGHT	Job Pac.#	111-11
Proj/Prog#	SEE RIGHT		
Budget FY:	Amount:		
SEE	RIGHT		
TOTAL	SEE RIGHT		

For Acct/Budget Div. Use Only

Verified by: [Signature]

Verified Funds Available: [Signature]

Date Approved: 10/13/16

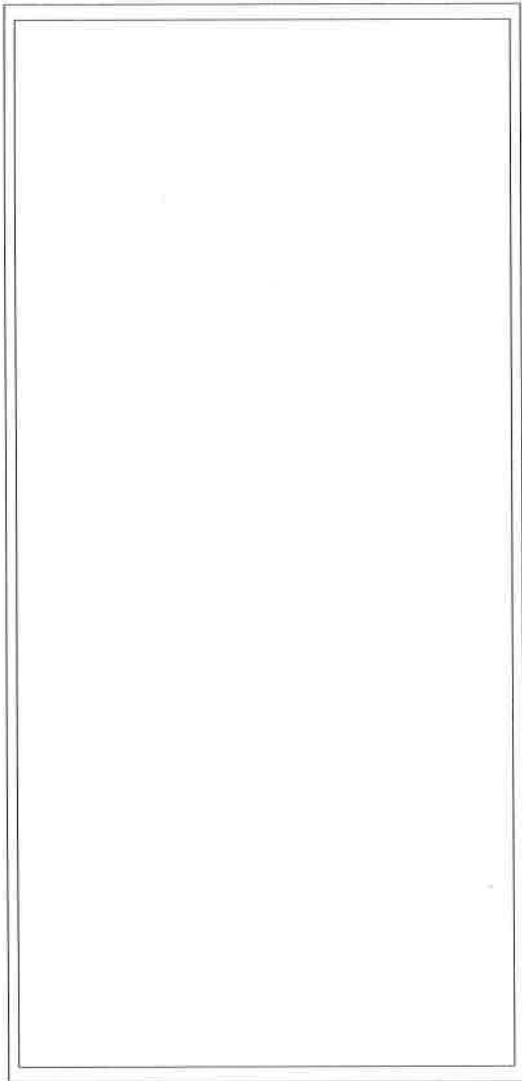
	FY 16/17	FY 17/18	FY 18/19	FY 19/20	FY 20/21	FY 21/22
54290	0310-000	03,325	0	0	0	0
54290	0311-308	435,000	475,440	484,787	498,208	512,024
54060	0311-308	76,460	0	0	0	0
		16				
		544,785	475,440	484,787	498,208	512,024
						526,246
						TOTAL: 3,091,490

Metro Countywide Bike Share Program Expansion
LACMTA-LA Harbor Dept. MOU
Exhibit C

09/19/2016

Extend your image all the way to the outside line, but only the area inside the inner line will be visible.

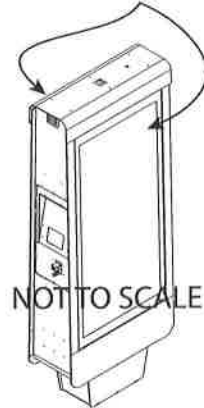
Trim: 25" w x 52.5" h. Visible: 24" w x 51" h.



Kiosk graphics template
BCycle #15605 - AD PANELS, 2 PER KIOSK
21 Oct 14

- This template is built to 100% actual size.
- Do not bleed images more than 1/2" outside of trim line.
- Do not scale this template.
- Place your graphics on a layer separate from the template.
- See "Layers" tab in Illustrator for more information.

NOTE: 2 PANELS PER KIOSK



Los Angeles County
Metropolitan Transportation Authority



Metro

**COMMUNICATIONS
Metro System Advertising**

(COM 6)

POLICY STATEMENT

The Los Angeles County Metropolitan Transportation Authority (Metro) has determined that allowing revenue-generating advertising which does not compromise public or employee safety to be placed in designated areas on its transit properties is a responsible means of maximizing use of the authority's capital investments. Therefore Metro may enter into contracts with outside vendors to sell and display advertising on Metro buses, trains and transit facilities for the sole purpose of generating revenue. Issuance of such contracts must be in accordance with Metro's procurement policies and approved by Metro's Board of Directors. Locations for revenue-generating advertising may include but are not limited to: interiors and exteriors of buses, interiors and exteriors of rail cars, interiors of rail stations, and fixed outdoor displays on Metro property. Metro shall not place or allow any exterior advertising on its Orange Line vehicles. Metro reserves the right to reject any advertising based upon its guidelines for acceptable advertising content contained in this policy statement.


Metro has further determined that advertising on its own properties is a valuable means of communicating with its customers. Therefore Metro explains and promotes its transit services through the dissemination of information onboard the Metro Bus and Metro Rail systems. Informational advertising space is limited, and reserved exclusively for Metro transit information. All messages and materials distributed by this means are prepared, approved and/or authorized by the Chief Communications Officer or their designee.

PURPOSE

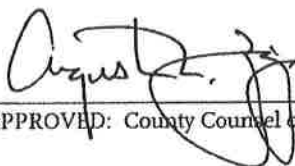
To clearly define the use of Metro's revenue-generating advertising space and informational advertising space throughout the Metro System.

APPLICATION

This policy and its procedures apply to all represented and non-represented employees, consultants and Board members.



Chief of SBU



APPROVED: County Counsel or N/A



ADOPTED: CEO

Effective Date: 12/2/2008

Date of Last Review: _____

Los Angeles County
Metropolitan Transportation Authority



Metro

COMMUNICATIONS Metro System Advertising

(COM 6)

1.0 GENERAL

The display of paid (revenue-generating) advertising carries with it a responsibility to protect the agency from potential litigation and to recognize the potential association of advertising images with Metro services while simultaneously respecting First Amendment principles. The agency addresses these issues through the responsible and consistent application of written criteria for advertising acceptability. It is not Metro's intent to create a public forum through the acceptance of advertising.

At the same time, Metro's ability to reach its customers directly is crucial to adequate dissemination of transit information. Any use of the unique distribution channels at its command (such as allotments of interior and exterior bus advertising space as well as on-board "take-one" boxes and in-station Variable Message Signs) for purposes unrelated to customer information or retention is to be avoided, as it effectively "pre-empts" the availability of transit information to the public. Metro's Communications Department administers the use of these unique distribution channels as part of its overall responsibility for customer communication.

2.0 PROCEDURES

2.1 Revenue-Generating Advertising

Metro contracts with outside vendors to sell and display advertising on bus and rail vehicles and facilities for the sole purpose of generating revenue. Metro does not sell or post advertising directly. Vendors for such contracts are solicited through competitive bids which must conform to Metro's procurement procedures and be approved by Metro's Board of Directors. Such agreements may dedicate no more than 90% of the available space covered by the contract for revenue-generating advertising, reserving the remaining available space for Metro's own transit-related information.

Locations for revenue-generating advertising may include, but are not limited to: exterior surface areas of buses and rail cars (see restrictions in section 2.1.5 below), interior display frames in bus and rail vehicles, back-lit map cases inside stations, automated public toilets and other fixed outdoor displays on Metro property, electronic Variable Message Signs (VMS) on station platforms, banner ads on Metro's website, space in Metro's printed brochures, timetables and other publications and printed materials, and any other location approved by Metro's Board of Directors. Metro shall not place or allow any exterior advertising on its Orange Line vehicles.

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Content restrictions for advertising displayed through these arrangements are as follows:

2.1.1 Alcohol and Tobacco Advertising

Advertising of all alcohol and tobacco products is prohibited.

2.1.2 Non-Commercial Advertising

Metro does not accept advertising from non-governmental entities if the subject matter and intent of said advertising is non-commercial. Specifically, acceptable advertising must promote for sale, lease or other form of financial benefit a product, service, event or other property interest in primarily a commercial manner for primarily a commercial purpose.

Exception: Governmental entities, meaning public entities specifically created by government action, may purchase advertising space for messages that advance specific government purposes. It is Metro's intent that government advertising will not be used for comment on issues of public debate.

2.1.3 Other Subject Matter Restrictions

Advertising may not be displayed if its content:

- Promotes or relates to an illegal activity;
- Contains language which is obscene, vulgar, profane or scatological;
- Contains images, copy or concepts that actively denigrate a specific ethnic or gender group;
- Contains images, copy or concepts that actively denigrate public transportation; or
- Contains obscene matter as defined in the Los Angeles County Code, Chapter 13.17, Section 13.17.010, or sexually explicit material as defined in the Los Angeles County Code, Chapter 8.28, Section 8.28.010D.

2.1.4 Metro's Right of Rejection

Beyond the above, Metro's vendors may review advertising content according to their own guidelines of acceptability. Metro does not screen individual ads submitted to its vendors prior to posting unless specifically requested to do so by the vendors. Nevertheless, in all contracts Metro reserves the right to reject

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any advertising content submitted for display on its properties and/or to order the removal of any advertising posted on its properties. Decisions regarding the rejection or removal of advertising are made by the Chief Communications Officer or their designee based upon the criteria in this policy statement.

2.1.5 Vinyl Window Graphics

To ensure the safety and security of passengers, operators and law enforcement officers, advertising displays which employ vinyl window graphics are restricted from obscuring window surfaces on Metro vehicles as follows:

- Buses: No more than 30% of the vehicle's total window surface, and no more than 50% of the window surface of any bus side, may be covered by vinyl window graphics. (Note: this excludes the front window surface, which may not be covered in any manner.)
- Rail Cars: No windows may be covered on rail cars.
- Metro Rapid: No wrapped advertising, bus backs or oversized king ads are permitted on Metro Rapid vehicles or on any articulated buses.

2.2 Informational Advertising

Metro has several unique distribution channels at its disposal for disseminating transit information for which it incurs no "space" cost (the fee charged for advertising space). These distribution channels include, but are not limited to: "take-one" boxes on board Metro Buses and Metro Rail trains, "take-one" racks at Metro Customer Centers, back-lit and non-lit map cases inside Metro Rail stations and on Metro Bus Stop poles, advertising kiosks at select Metro Rail stations, electronic Variable Message Signs (VMS) on Metro Rail platforms, and interior rail posters on board Metro Rail trains.

In addition, as specified in section 2.1, Metro has the use of an allotment of exterior and interior bus advertising space at no charge by agreement with the vendor that sells all remaining interior and exterior bus advertising space under a revenue-generating agreement.

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Acceptable information for these distribution channels is categorized as follows:

2.2.1 Regular Transit Information

Regular transit information is prepared by Metro's Communications Department in accordance with its annual strategic planning process as well as upon request from other internal departments. Regular transit information includes, but is not limited to: service features and changes, fare information and changes, safety and security messages, maps and explanations of related transportation services.

2.2.2 Cross-Promotional Information

On an occasional basis and only when space is available, Metro's Communications Department may use Metro's distribution channels to participate in cross-promotional opportunities that offer a direct opportunity to promote use of transit. Any materials distributed for this purpose must prominently include promotion of Metro services (i.e. "Go Metro to Fiesta Broadway"). Metro is prohibited by law from simply donating advertising space to any entity for purposes that are not directly transit-related.

The outside organization involved must either bear the cost of producing such materials or, if approved by Metro's Communications Department, provide an equivalent or greater value in cross-promotional benefits (i.e. advertising space, editorial space, etc.). Any cross-promotional arrangement must be approved by the Chief Communications Officer or their designee based upon the criteria in this policy statement.

2.2.3 "Added Value" Materials

On an occasional basis and only when space is available, Metro's Communications Department may use Metro's distribution channels to provide "added value" materials to its customers. Such materials must present a specific and time-dated offer uniquely provided for Metro Bus and Metro Rail customers (generally a money-saving discount) in which transit can be used to access the redemption point. Any materials distributed for this purpose must prominently include the Metro logo and other wording approved by Metro's Communications Department to indicate that the offer is specifically designed for Metro Bus and Metro Rail customers. Metro is prohibited by law from simply donating advertising space to any entity for purposes that are not directly transit-related.

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The outside organization involved must either bear the cost of producing such materials or, if approved by Metro's Communications Department, provide an equivalent or greater value in cross-promotional benefits (i.e. advertising space, editorial space, etc.). Any added value programs must be approved by the Chief Communications Officer or their designee based upon the criteria in this policy statement.

3.0 DEFINITION OF TERMS

Added Value Materials – Informational advertising which offers a tangible benefit to patrons as a means of rewarding and retaining customers (i.e., a money-saving discount).

Cross-Promotion – A cooperative partnership in which two or more entities work together with the goal of jointly promoting their respective services.

Exterior King Ad – Large ad measuring 144" x 30" displayed on the sides of Metro Buses. King ads are directly applied to the bus with adhesive vinyl.

Exterior Tail light or "Tail" Ad – Smaller ad measuring 48" x 15 ½" or 72" x 21" displayed on the rear of Metro Buses. Tail ads are directly applied to the bus with adhesive vinyl.

Governmental Entities – Public entities specifically created by government action.

Interior Bus Car Card – A 28" x 11" poster that mounts above the seats in Metro Buses to provide information on fares, routes, safety, pass & token sales locations, service changes and other matters relevant to the use of the Metro System.

Interior Rail Poster – A 21" x 22 ¼" poster that mounts in frames on the walls of Metro Rail cars, used to display Metro Rail System Maps and provide information on fares, routes, safety, pass & token sales locations, service changes and other matters relevant to the use of the Metro System.

Map Cases – Fixed cases in Metro Rail stations that hold a 46¾" x 46¾" display, usually backlit. Used to display Metro Rail System Maps and provide information on fares, routes, safety, pass & token sales locations, service changes and other matters relevant to the use of the Metro System.

Non-Commercial Advertising – A public service announcement, event notification, political statement or other message which does not have as its primary purpose to propose a commercial transaction.

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Take-One – A printed brochure measuring 3½” x 8½” placed inside Metro Buses or Metro Rail trains, used to provide information on fares, routes, safety, pass & token sales locations, service changes and other matters relevant to the use of the Metro System.

Take One Box – A metal rack or plastic holder installed on the interior of Metro Buses and Metro Rail trains designed to hold approximately 40 take-ones. Many Metro Buses have a multi-pocket rack in addition to 2 plastic take-one boxes; most Metro Rail cars have from 2 to 6 plastic take-one boxes.

Variable Message Signs (VMS) – Electronic sign boards in Metro Rail stations controlled from the Rail Operations Control Center that scroll through a series of written messages. Used to provide information on safety, pass & token sales locations, service changes, emergency announcements and other matters relevant to the use of the Metro System.

Vinyl Window Graphics – An adhesive vinyl super-graphic which covers a portion of the window surface of a bus or rail vehicle. Such graphics are manufactured to be largely transparent to those inside the vehicle, permitting passengers to see outside through the graphics.

4.0 RESPONSIBILITIES

Communications Department prepares all messages and materials for dissemination on board Metro Buses and Metro Rail trains; administers the distribution/display of transit information; tracks/coordinates the availability and use of Metro’s unique information distribution channels.

Mailroom distributes quantities of take-ones to Metro Operating Divisions and Customer Centers according to distribution list prepared by project managers in Communications.

Operators and Service Attendants physically place take-ones on buses/trains for distribution to the public.

Advertising Vendors sell, post and maintain all revenue-generating advertising on Metro properties; implement Metro’s policies on revenue-generating advertising; post all Metro informational advertising according to instructions from Metro Marketing Department.

Chief Communications Officer (or designee) reviews and approves/rejects all cross-promotions and added value programs using Metro’s unique distribution channels based upon the criteria in this policy statement; enforces Metro’s right to reject and/or order removal of revenue-generating advertising based upon the criteria in this policy statement.

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5.0 FLOWCHART

Not Applicable

6.0 REFERENCES

Not Applicable

7.0 ATTACHMENTS

Not Applicable

8.0 PROCEDURE HISTORY

- 03/23/00 Original policy adopted by Metro's Board of Directors.
- 01/27/05 Policy amended by Board of Directors to permit advertising on Metro Rapid vehicles.
- 09/26/08 Biennial review and update. Policy updated to include Board of Directors amendment to permit all forms of non-traditional advertising displays as well as advertising on rail car exteriors and other types of transit service with the exception of Orange Line vehicle exteriors.

EXHIBIT E - AFFIRMATIVE ACTION PROGRAM PROVISIONS

Sec. 10.8.4 Affirmative Action Program Provisions.

Every non-construction contract with or on behalf of the City of Los Angeles for which the consideration is \$100,000 or more and every construction contract with or on behalf of the City of Los Angeles for which the consideration is \$5,000 or more shall contain the following provisions which shall be designated as the AFFIRMATIVE ACTION PROGRAM provisions of such contract:

- A. During the performance of City contract, the contractor certifies and represents that the contractor and each subcontractor hereunder will adhere to an affirmative action program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.
 - 1. This provision applies to work or services performed or materials manufactured or assembled in the United States.
 - 2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
 - 3. The contractor shall post a copy of Paragraph A hereof in conspicuous places at its place of business available to employees and applicants for employment.
- B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to their race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.
- C. As part of the City's supplier registration process, and/or at the request of the awarding authority or the Office of Contract Compliance, the contractor shall certify on an electronic or hard copy form to be supplied, that the contractor has not discriminated in the performance of City contracts against any employee or applicant for employment on the basis or because of race, religion, ancestry, national origin, sex, sexual orientation, age, disability, marital status, domestic partner status, or medical condition.
- D. The contractor shall permit access to and may be required to provide certified copies of all of its records pertaining to employment and to its employment practices by the awarding authority or the Office of Contract Compliance, for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of City contracts, and on their or either of their request to provide evidence that it has or will comply therewith.

EXHIBIT E - AFFIRMATIVE ACTION PROGRAM PROVISIONS

- E. The failure of any contractor to comply with the Affirmative Action Program provisions of City contracts may be deemed to be a material breach of contract. Such failure shall only be established upon a finding to that effect by the awarding authority, on the basis of its own investigation or that of the Board of Public Works, Office of Contract Compliance. No such finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the contractor.
- F. Upon a finding duly made that the contractor has breached the Affirmative Action Program provisions of a City contract, the contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the awarding authority, and all monies due or to become due hereunder may be forwarded to and retained by the City of Los Angeles. In addition thereto, such breach may be the basis for a determination by the awarding authority or the Board of Public Works that the said contractor is an irresponsible bidder or proposer pursuant to the provisions of Section 371 of the Los Angeles City Charter. In the event of such determination, such contractor shall be disqualified from being awarded a contract with the City of Los Angeles for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.
- G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the City of Los Angeles, or any court of competent jurisdiction, that the contractor has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a City contract, there may be deducted from the amount payable to the contractor by the City of Los Angeles under the contract, a penalty of TEN DOLLARS (\$10.00) for each person for each calendar day on which such person was discriminated against in violation of the provisions of a City contract.
- H. Notwithstanding any other provisions of a City contract, the City of Los Angeles shall have any and all other remedies at law or in equity for any breach hereof.
- I. The Public Works Board of Commissioners shall promulgate rules and regulations through the Office of Contract Compliance and provide to the awarding authorities electronic and hard copy forms for the implementation of the Affirmative Action Program provisions of City contracts, and rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations or forms may be used by an awarding authority of the City to accomplish this contract compliance program.
- J. Nothing contained in City contracts shall be construed in any manner so as to require or permit any act which is prohibited by law.
- K. The Contractor shall submit an Affirmative Action Plan which shall meet the requirements of this chapter at the time it submits its bid or proposal or at the time it

EXHIBIT E - AFFIRMATIVE ACTION PROGRAM PROVISIONS

registers to do business with the City. The plan shall be subject to approval by the Office of Contract Compliance prior to award of the contract. The awarding authority may also require contractors and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Plan. Affirmative Action Programs developed pursuant to this section shall be effective for a period of twelve

months from the date of approval by the Office of Contract Compliance. In case of prior submission of a plan, the contractor may submit documentation that it has an Affirmative Action Plan approved by the Office of Contract Compliance within the previous twelve months. If the approval is 30 days or less from expiration, the contractor must submit a new Plan to the Office of Contract Compliance and that Plan must be approved before the contract is awarded.

1. Every contract of \$5,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall in addition comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.
 2. A contractor may establish and adopt as its own Affirmative Action Plan, by affixing his or her signature thereto, an Affirmative Action Plan prepared and furnished by the Office of Contract Compliance, or it may prepare and submit its own Plan for approval.
- L. The Office of Contract Compliance shall annually supply the awarding authorities of the City with a list of contractors and suppliers who have developed Affirmative Action Programs. For each contractor and supplier the Office of Contract Compliance shall state the date the approval expires. The Office of Contract Compliance shall not withdraw its approval for any Affirmative Action Plan or change the Affirmative Action Plan after the date of contract award for the entire contract term without the mutual agreement of the awarding authority and the contractor.
- M. The Affirmative Action Plan required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Board of Public Works, Office of Contract Compliance or the awarding authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:
1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
 2. Classroom preparation for the job when not apprenticeable;
 3. Pre-apprenticeship education and preparation;

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4. Upgrading training and opportunities;
 5. Encouraging the use of contractors, subcontractors and suppliers of all racial and ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the contractor's, subcontractor's or supplier's geographical area for such work;
 6. The entry of qualified women, minority and all other journeymen into the industry; and
 7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.
- N. Any adjustments which may be made in the contractor's or supplier's workforce to achieve the requirements of the City's Affirmative Action Contract Compliance Program in purchasing and construction shall be accomplished by either an increase in the size of the workforce or replacement of those employees who leave the workforce by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.
- O. Affirmative Action Agreements resulting from the proposed Affirmative Action Plan or the pre-registration, pre-bid, pre-proposal or pre-award conferences shall not be confidential and may be publicized by the contractor at his or her discretion. Approved Affirmative Action Agreements become the property of the City and may be used at the discretion of the City in its Contract Compliance Affirmative Action Program.
- P. This ordinance shall not confer upon the City of Los Angeles or any Agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by contractors or suppliers engaged in the performance of City contracts.
- Q. All contractors subject to the provisions of this section shall include a like provision in all subcontracts awarded for work to be performed under the contract with the City and shall impose the same obligations, including but not limited to filing and reporting obligations, on the subcontractors as are applicable to the contractor. Failure of the contractor to comply with this requirement or to obtain the compliance of its subcontractors with all such obligations shall subject the contractor to the imposition of any and all sanctions allowed by law, including but not limited to termination of the contractor's contract with the City.