

Public Infr
3-16-15

15-329

TRANSIT ADVERTISING CONTRACT

This CONTRACT is made this 23rd day of January, 2015, between Manitowoc Maritime Metro (hereinafter called "city"), and Houck Transit Advertising, Inc. (hereinafter called "Contractor").

The CITY and Contractor in consideration of the mutual covenants contained herein, and for valuable consideration exchanged between the parties hereto, hereby agree as follows:

1. DEFINITIONS

Advertising - the removable panel and the words, pictures and symbols visible to the public which are put on the bus panel.

Billing - The total of all payments that the Contractor requests from clients in a calendar month.

Bus - A standard transit coach for transporting passengers, including tripper and spare buses.

Client - The person or company paying the Contractor to install advertising.

Eliminate buses - Selling a bus or assigning a bus to a contingency status in long-term storage.

2. CONTACT DURATION

The duration of this CONTRACT shall be for 2 years beginning on _____, 2015, unless otherwise terminated under the provisions of this CONTRACT and continue until _____, 2015.

3. OBLIGATIONS OF CONTRACTOR

A. The CITY hereby grants to the Contractor the exclusive right and privilege to solicit, sell, and display advertising on the interior and exterior of buses operated by the CITY. The Contractor shall operate to maximize the revenue generated from such advertising. The Contractor shall provide this service in accordance with this contract.

B. Advertising displayed under the terms of this contract shall be of a reputable character, shall conform to recognized business standards and shall not conflict with the laws or regulations of the United States, State of Wisconsin or political subdivision thereof having jurisdiction over the CITY. The CITY shall have the right to require the removal any advertising that brings disrepute upon the CITY and the Contractor shall remove such advertising immediately or within a reasonable time period.

C. All advertising shall be provided, installed, changed, repaired and removed at the sole expense of the Contractor, except when it is removed by the CITY for purpose of repairing or cleaning the bus and frames.

D. In consideration of the rights and privileges granted under this contract, the Contractor shall pay to the CITY each month an amount equal to 50% of the gross monthly amount of advertising billing that the Contractor sells, less any Advertising Agency commission, if any.

E. In all cases, the percentage payment will be based upon the monthly billing by the Contractor and not upon monthly receipts. Contractor bears responsibility for all uncollectible billing, except in the case of legally filed bankruptcies.

The Contractor shall furnish to the CITY each month a copy of the client billing and at the same time remit to the CITY the percentage payment for that month.

This contract may be renewed for two additional 5-year terms by mutual agreement.

F. Contractor shall be knowledgeable of and shall comply with all applicable local, state and federal laws and regulations. Contractor shall be solely responsible for the payroll, insurance coverage, benefits, personnel administration, and supervision of all personnel hired by the Contractor to provide the services required by this contract.

G. Throughout the duration of this contract, the Contractor shall obtain and maintain, at the Contractor's sole cost and expense, the following insurance coverage:

1. \$2,000,000 per occurrence Personal Injury insurance coverage
2. \$4,000,000 per year
3. \$300,000 automobile liability

The Contractor shall provide the CITY with certificates of insurance upon request evidencing the insurance coverage required and shall not perform any services under this contract until such insurance is secured.

4. OBLIGATIONS OF THE CITY

A. If the buses are or will be equipped with sign frames, the CITY agrees to provide, install, and maintain the advertising frames on all buses now owned or hereafter acquired. The CITY shall insure that the frames are in proper repair at all times. All such frames shall be and remain the sole property of the CITY.

B. The CITY shall assume the expense of removing, storing and replacing all advertising for the purpose of repairing or cleaning the buses. The CITY shall use reasonable care to protect the advertising and shall exercise due diligence in preventing others from disturbing the same.

C. The CITY shall, at no charge, so far as practical and convenient to the CITY, make available to Contractor storage and work area for use in connection with its operation hereunder. The Contractor shall keep the work area clean and neat.

5. RIGHTS OF THE CITY AND CONTRACTOR

A. This contract applies to eight CITY buses. The CITY reserves the right to add or eliminate buses from its fleet without permission from the Contractor. In the event of such addition or elimination of buses from the fleet, the CITY shall notify Contractor 30 days in advance in order for the Contractor to accommodate any client notifications and/or billing modifications, and the guaranteed and percentage payments by the Contractor shall be appropriately adjusted.

B. The CITY hereby grants the right to duly authorized and properly identified representatives of Contractor to enter upon CITY property, during normal business hours, for the purpose of operating under this contract.

C. Contractor agrees to permit any accredited representative of the CITY at any time during normal and usual business hours, and from time to time, to inspect and examine the books and records of Contractor.

D. Trades of advertising for merchandise or other concessions may not be made during the term of this contract without the consent of both parties, with the exception of the ninth bus owned by CITY, which is made available to a local radio station for their advertising based on an agreement CITY has with that station. Contractor agrees that CITY will continue to negotiate that contract and Contractor will receive no revenue from those ads.

E. Contractor may set rates to be charged for advertising, and terms and conditions, and manner of payment by clients. Current rate schedules to be charged advertisers shall be available to CITY at any time upon request.

F. Contractor agrees that the CITY may use at no charge any empty advertising space which are available from time to time for the purpose of promoting the CITY transit business and in such event, the CITY shall furnish Contractor such advertising signs at CITY expense.

G. While Contractor proposes to exercise every reasonable business effort to install advertising sold at the maximum rate in every space, it is recognized by the parties hereto that Contractor may not at all times during the period of this contract be able to reach the maximum and Contractor shall have the right to install public, educational, and charitable advertising as Contractor shall deem proper at a reduced rate.

H. In addition to other rights of the parties contained herein, either party has the right to terminate this contract at any time on 30 days written notice in the event that the other party has failed to comply fully with the terms and conditions contained herein.

6. AMENDMENTS

This contract may be amended or otherwise modified only by written document executed by both parties and failure on the part of either party to enforce any provision of this contract shall not be construed as a waiver of the right to compel enforcement of such provision, nor act to relieve either party of its obligations under this contract.

There are no understandings, contracts, or conditions with respect to this contract except those contained in this contract and in the documents incorporated by reference.

This contract may not be assigned, transferred, conveyed, or encumbered by either party without the express written consent of the other party.

In witness whereof, duly authorized representatives of each party execute this contract.

7. Exceptions

In the event of a natural disaster, labor strike, civil unrest, acts of terror, acts of God, or economic recession, or any other event that the Contractor or the City has no control over, that would negatively affect the performance of Houck's duties under the contract, certain terms or conditions of the contract affected by any of the listed events may be renegotiated or temporarily changed to provide relief to either party.

City of _____:

Name (Printed)

Title

Name (Signed)

Date

Contractor:

Name (Printed)

Title

Name (Signed)

Date