

**22****COMMUNITY  
MITIGATION  
FUND**

\_\_\_ check if joint application

**APPENDIX F - 2022 Community Planning Grant Application****BD-22-1068-1068C-1068L-68403*****Please complete entire the Application*****1. PROJECT INFORMATION****a) NAME OF MUNICIPALITY/GOVERNMENT ENTITY/DISTRICT AND VENDOR CODE**

City of Lynn, MA

**VENDOR CODE:** 6000192109**b) PROJECT NAME (LIMIT 10 WORDS)**

Look at Lynn Marketing Campaign

**c) BRIEF PROJECT DESCRIPTION (LIMIT 50 WORDS)**

The City of Lynn is seeking to sustain its marketing campaign (initiated through a 2021 Community Planning Application) designed to mitigate the adverse effects on the City of Lynn, its businesses and cultural district as a result of the operation of the Encore, Boston casino.

**d) CONTACT PERSON(S)/TITLE (Persons with responsibility for this grant)**

James Marsh - Community Development Director

**e) PHONE # AND EMAIL ADDRESS OF CONTACT PERSON(S)**

781-586-6770

JMarsh@LynnMA.gov

f) MAILING ADDRESS OF CONTACT PERSON(S)
Lynn City Hall - 3 City Hall Square - Room 311 Lynn, MA 01901

## 2. IMPACT DESCRIPTION/CONNECTION TO GAMING FACILITY

### a) Please describe in detail the impact that is attributed to the operation of a gaming facility.

Encore, Boston attracts hundreds of thousands of visitors seeking the variety of entertainment attractions the casino offers from all over the New England Region and beyond. The casino offers not only gaming, but also a multitude of additional attractions including live performances, fine dining and a host of shopping options within the casino and the immediate area. People from all over travel to Encore to enjoy gambling, shows, restaurants and the retail options it provides.

Gaming aside, cities and towns like Lynn offer similar consumer options to visitors. For municipalities, the funds derived from these options not only keep business afloat, but are also essential tax revenue generators. In Lynn, notwithstanding the current pandemic, we are fortunate to be in the midst of a rebirth. Signature restaurants have opened, our waterfront is developing with high-end housing options, and we continue to nurture our new cultural district with a variety of entertainment and artistic offerings. Maintaining this momentum is essential to the continued rebirth and advancement of The City of Lynn.

Unfortunately, the host of high-end attractions at and around Encore are drawing would be visitors and their discretionary income from Lynn to the casino. The resulting impact on both business viability and revenue generation for the City of Lynn is adversely affecting our ability to maintain the gains we have recently made.

Exacerbating the issue, not only does Encore offer higher quality consumer options, the casino has the marketing power to draw people away from City's like Lynn and maintain these customers through high powered, expensive media campaigns. These campaigns are also implemented in and around Lynn and the North Shore targeting local consumers that have, up until the opening of Encore, been loyal local customers. In addition, it is well documented that the gaming Encore offers acts as a built-in crowd gathering generator from which their restaurants, performance halls and retail outlets can easily draw. Cities and towns like Lynn do not have this advantage and cannot compete. The playing field is not level on a variety of levels. Businesses are losing revenue and as a result, the city is losing taxes.

**b) Please provide documentation, specificity or evidence that gives support for the determination that the operation of the gaming facility caused or is causing the impact (i.e. surveys, data, reports).**

It is a well-established fact that casinos create positive economic spin-off on communities where these facilities are built and run. Much like the siting of an Amazon facility, this spin-off is one of the biggest factors why communities compete for and encourage casinos to site these establishments within their borders. As these casinos attract visitors, these communities see an increase in economic activity. Conversely, other communities experience a loss as visitors and associated disposable income begins to leave municipalities like Lynn.

As demonstrated in our previous Planning Grant Application, a documented example of this effect can be demonstrated through ticket sales at the Lynn Auditorium. The Lynn Auditorium has established that Encore Boston is a direct competitor for the booking of shows and entertainment. In fact, The Lynn Auditorium has demonstrated that it has attempted to book, however has been beaten out by the Casino on a variety of shows such as Tony Bennett, the B52s and other high end acts. Just five lost shows translate into a loss of over 10,000 visitors to Lynn's downtown or approximately \$1,000,000 in ticket sales. The Massachusetts Office of Travel and Tourism indicates in their annual reports that every \$1.00 spent by a visitor equates to 2.5 cents in local taxes. This example merely demonstrates the impact on local taxes due to the loss of five shows. Add to this the number of lost visitors Encore is taking from our food service, retail and other local industries, and the tax number grows exponentially. Losses are further exacerbated when you take into consideration the direct loss in revenue to these industries, and multiplier effects.

**c) How do you anticipate your proposed remedy will address the identified impact.**

Although the City of Lynn may never match the casino's marketing budget nor the significant economic spinoff through their ability to crowd gather, this additional marketing funding will help the City sustain its marketing efforts and help begin leveling the playing field by affording us the opportunity to further implement our plan and showcase Lynn's offerings to the general public. The Casino's artistic, food establishment and retail outlets enjoy the advantage of both a large marketing machine and built-in crowd. Through the use of these funds, the City would be able to attract more entertainment seekers, shoppers and restaurant patrons to Lynn. We would showcase all of what Lynn has to offer in an attempt to keep local visitors and customers in Lynn, and perhaps even attract regional casino patrons to visit to Lynn.

**3. PROPOSED USE OF COMMUNITY PLANNING FUNDS (Please attach additional sheets/supplemental materials if necessary.)**

**a) Please identify the amount of funding requested. In determining the funding request, please round up to the nearest hundred dollars.**

\$100,000

**b) Please identify below the manner in which the funds are proposed to be used. Please provide a detailed scope, budget and timetable for the use of funds.**

The City of Lynn is currently utilizing its 2021 Planning Grant in conjunction with the MA Office of Travel and Tourism. We have created a wonderful marketing video and will contract with a marketing professional for the purposes of creating a comprehensive marketing plan. The 2022 funds will be utilized to actually implement - through advertising and media purchases - the recommendations in the finalized marketing plan, and our new "Visit Lynn" video.

As referenced in our 2021 grant application, the City's goal was seeking to implement the initial marketing plan for a one-year period, with the anticipation of sustaining the plan over a multi-year period. Specifically the funds from the 2022 grant will be utilized to make additional advertisement purchases such as social media, billboard, poster, banner, and signage buys.

We are seeking \$100,000 from this mitigation grant for these purposes. Additional funding may be made available from the MA Office of Travel & Tourism and the City itself.

Please see the attached Budget & Timetable.

#### **SCOPE OF SERVICES:**

Upon recommendations from our marketing firm, the City of Lynn will initiate media purchases designed to support economic development, solidify an identity and brand concept, support visitor retention efforts, elevate awareness and enhancement of the City of Lynn's image to its target audiences, increase customer traffic to Lynn's business and shopping districts and increase visits and customer retention to the City of Lynn on a whole.

#### **THE 2022 PROJECT SHALL INCLUDE:**

- User-Generated Content
- Virtual Reality and Video
- Social Media / You Tube Advertisements
- Utilization of Social Media Influencers
- Online Advertising Plans
- Offline Advertising / newspapers, billboards, travel publications.
- Television advertng.

- c) Please provide documentation (e.g. - invoices, proposals, estimates, etc.) adequate for the Commission to ensure that the funds will be used for the cost of planning to mitigate the impact.**

Please see attached marketing buy estimates.

- d) Please describe how the planning request will address the impact indicated. Please attach additional sheets/supplemental materials if necessary.**

As outlined in question 2c, this request will provide the City with the resources to effectively promote a variety of amenities and businesses the City of Lynn has to offer to the general public. It will attempt to level the unfair playing ground and assist the City and its businesses in recouping lost revenue and taxes due to the operation of the Casino.

- e) For joint grant requests, please state the amount requested for the joint request. Please also state the amount of any Regional Planning Incentive Award requested and provide separate detail on the use of these additional funds.**

N/A

#### **4. CONSULTATION WITH REGIONAL PLANNING AGENCY (RPA)/NEARBY COMMUNITIES**

- a) Please provide details about the Applicant's consultation with the Regional Planning Agency serving the community and nearby communities to determine the potential for cooperative regional efforts regarding planning activities.**

The Massachusetts Area Planning Council (MAPC) has been contacted relative to this effort. We specifically asked the agency for a list of companies engaged in marketing / consulting and recommendations on items to include in our RFP for the 2021 planning funds. We intend to involve the MPAC as we move forward with additional media purchases.

#### **5. MATCHING FUNDS FROM GOVERNMENTAL OR OTHER ENTITY**

**a) Please demonstrate that the governmental or other entity will provide significant funding to match or partially match the assistance required from the Community Mitigation Fund.**

The City of Lynn's has created a new planning department and hired a Lynn Director of Arts & Culture. If this grant application is successful, the City intends to match up to 25% of any award and utilize staffing time from this office to implement the grant funding. In addition we are seeking funding from the Massachusetts Office of Travel and Tourism's FY 2022 Travel & Tourism Recovery Grant for up to \$50,000.

**b) Please provide detail on what your community will contribute to the planning projects such as in-kind services or planning funds.**

As referenced above the City intends to provide matching funding for implementing our marketing initiative. In addition, the City's Office of Community Development and Planning Department will provide in-kind staff time to assist in the administrative aspects of implementation of our marketing plan. It will also be necessary for City of Lynn procurement staff to oversee and manage any bidding, quoting or purchasing requirements relative to this proposal.

**6. RELEVANT EXCERPTS FROM HOST OR SURROUNDING COMMUNITY AGREEMENTS AND MASSACHUSETTS ENVIRONMENTAL POLICY ACT (MEPA") DECISION****a) Please describe and include excerpts regarding the impact and potential mitigation from any relevant sections of the community's Host or Surrounding Community Agreement.**

N/A

**b) Where applicable, please also briefly summarize and/or provide page references to the most relevant language included in the most relevant MEPA certificate(s) or comment(s) submitted by the community to MEPA.**

N/A

**c) Please explain how this impact was either anticipated or not anticipated in that Agreement or such MEPA decision.**

N/A

**d) If planning funds are sought for mitigation not required under MEPA, please provide justification why funding should be utilized to plan for such mitigation.**

N/A

## **7. INTERNAL CONTROLS/ADMINISTRATION OF FUNDS**

**a) Please provide detail regarding the controls that will be used to ensure that funds will only be used to address the impact.**

These funds will be managed and disbursed through normal City of Lynn fiscal practices including review and sign off by the Mayor, CFO, City Attorney and Community Development Department. They will also be subject to the City's normal annual auditing practices.

**b) Will any nongovernmental entity receive funds? If so, please describe. If non-governmental entities will receive any funds, please describe what reporting will be required and how the applicant will remedy any misuse of funds.**

No nongovernmental entities will receive funds.

**NO COMMUNITY IS ELIGIBLE FOR MORE THAN ONE COMMUNITY PLANNING  
REGIONAL PLANNING INCENTIVE AWARD.**



**8. CERTIFICATION BY MUNICIPALITY/GOVERNMENTAL ENTITY**

On behalf of the aforementioned municipality/governmental entity I hereby certify that the funds that are requested in this application will be used solely for the purposes articulated in this Application.



By:

Date: 1/31/2022

Signature of Responsible Municipal  
Official/Governmental Entity

James Marsh  
(print name)

Community Development Director  
Title:

## BUDGET

### Brief Description Estimates

Billboard Buys	\$25,000.00	
Social Media Buys	\$25,000.00	
Print Buys	\$10,000.00	
Television Ad Buys	\$40,000.00	
TOTAL BUY BUDGET:		\$100,000.00

\* This budget is based on various conversations with marketing professionals and firms

\* Proposals will be submitted when bid.

## TIMETABLE

Jun-22 Meida Buys	\$20,000.00
Jul-22 Meida Buys	\$10,000.00
Aug-22 Meida Buys	\$10,000.00
Sep-22 Meida Buys	\$8,000.00
Oct-22 Meida Buys	\$8,000.00
Nov-22 Meida Buys	\$5,000.00
Dec-22 Meida Buys	\$5,000.00
Jan-23 Meida Buys	\$5,000.00
Feb-23 Meida Buys	\$5,000.00
Mar-23 Meida Buys	\$8,000.00
Apr-23 Meida Buys	\$8,000.00
May-23 Meida Buys	<u>\$8,000.00</u>
	\$100,000.00

ADVERTISER AGREEMENT

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Boston, MA	Digital Bulletins - Rotary/Sho		FULL	2	03/02/20-02/28/21	13.00	4W	\$1,500.00
Boston, MA MBTA Digital S/A Bonus	Liveboards	65"	:10/SPOT	24	03/02/20-03/15/20	.50	4W	\$0.00
Boston, MA MBTA Digital	Liveboards	65"	:10/SPOT	24	03/16/20-03/29/20	.50	4W	\$3,200.00
Boston, MA MBTA Digital S/A Bonus	Liveboards	65"	:10/SPOT	24	03/30/20-04/12/20	.50	4W	\$0.00

Special Instructions:

Digital Bulletins - Rotary Group A: 99N, 100S, 124N, 87W, 88E

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Net Agreement Total: \$59,800.00

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ACCEPTED AND AGREED TO BY - OUTFRONT MEDIA

ADVERTISER/AGENCY

DocuSigned by:

Henry Ryan

AUTHORIZED SIGNATURE - TITLE

B1EE1C2BF66D4D2...

BY \_\_\_\_\_ DATE \_\_\_\_\_

PLEASE PRINT Henry Ryan promotion & booking DATE 02/16/2020 | 8:17:06 AM

NAME - TITLE

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Boston, MA MBTA Digital S/A Bonus	Liveboards	65"	:10/SPOT	24	04/27/20-05/10/20	.50	4W	\$0.00
Boston, MA MBTA Digital	Liveboards	65"	:10/SPOT	24	05/11/20-05/24/20	.50	4W	\$3,200.00
Boston, MA MBTA Digital S/A Bonus	Liveboards	65"	:10/SPOT	24	05/25/20-06/07/20	.50	4W	\$0.00
Boston, MA MBTA Digital	Liveboards	65"	:10/SPOT	24	06/08/20-06/21/20	.50	4W	\$3,200.00

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BRAND:

ACCOUNT EXECUTIVE: Steve Rex (J21)

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Market	Media/Location(s)	Size	GRP/ IMP 18+	Units	Advertising Period	No. of Periods	*	Period Cost
Boston, MA MBTA Digital S/A Bonus	Liveboards	65"	:10/SPOT	24	11/09/20-11/22/20	.50	4W	\$0.00
Boston, MA MBTA Digital	Liveboards	65"	:10/SPOT	24	11/23/20-12/06/20	.50	4W	\$3,200.00
Boston, MA MBTA Digital Guar Bonus	Liveboards	65"	:10/SPOT	24	12/07/20-12/20/20	.50	4W	\$0.00
Boston, MA MBTA Digital	Liveboards	65"	:10/SPOT	24	12/21/20-01/03/21	.50	4W	\$3,200.00
Boston, MA MBTA Digital S/A Bonus	Liveboards	65"	:10/SPOT	24	01/04/21-01/17/21	.50	4W	\$0.00

**Special Instructions:**

Digital Bulletins - Rotary Group A: 99N, 100S, 124N, 87W, 88E

Digital Bulletins - Rotary Group B: 120S, 90N, 89S, 121N, MA61S, 127S

**THIS AGREEMENT IS NON-CANCELABLE BY ADVERTISER/AGENCY EXCEPT AS SET FORTH IN THE TERMS AND CONDITIONS ATTACHED HERETO WITH RESPECT TO TRANSIT DISPLAYS ONLY. THIS AGREEMENT CONSISTS OF THIS PAGE, THE PRODUCTION INFORMATION ADDENDUM PAGE, AND THE OUTFRONT MEDIA TERMS AND CONDITIONS OF ADVERTISING SERVICE INCORPORATED HEREIN, ALL OF WHICH ADVERTISER/AGENCY HEREBY ACKNOWLEDGES RECEIVING AND APPROVING. ANY MISSING PAGES OF THIS AGREEMENT MAY BE OBTAINED OR REQUESTED THROUGH ANY OUTFRONT MEDIA OFFICE OR REPRESENTATIVE IF LOST OR NOT RECEIVED BY ADVERTISER/AGENCY. FACSIMILE SIGNATURES SHALL HAVE THE SAME FORCE AND EFFECT AS ORIGINAL SIGNATURES. THIS AGREEMENT MAY BE EXECUTED IN SEVERAL COUNTERPARTS, EACH OF WHICH SHALL CONSTITUTE ONE AND THE SAME COPY. AGENCY AND/OR THE SIGNATORY HERETO REPRESENTS AND WARRANTS THAT THEY ARE AUTHORIZED TO EXECUTE THE SAME ON BEHALF OF AND BIND THE ADVERTISER AND THAT THE ADVERTISER APPROVES SAME.**

\* Period Codes: M=Monthly; W=Weekly; 4W=4 Weeks; D=Daily; OT=One Time TF=Till Forbid

**ADVERTISER AGREEMENT**

PAGE 6 OF 14

**OUTFRONT/**

OUTFRONT Media  
40 Water St., Lower Mezz  
Boston, MA 02109-3604  
(781) 792-2123  
(781) 792-2736

CONTRACT NO.: **3085099**

DATE: 02/12/20

ADVERTISER: Lynn Auditorium

CLIENT SUPPLIES PRODUCTION: Yes

BRAND:

ACCOUNT EXECUTIVE: Steve Rex (J21)

CAMPAIGN:

***Copy must meet Production specifications and be received 10 working days prior to each advertising period.***

THIS AGREEMENT AND THE COPY TO BE DISPLAYED HEREUNDER IS SUBJECT TO THE APPROVAL OF OUTFRONT MEDIA'S MARKET GENERAL MANAGER AND THE OWNER OF THE LOCATION AS APPLICABLE

Advertiser Bill-To# 1129764

Lynn Auditorium  
3 City Hall Sq  
Room 311  
Lynn, MA 01901  
978-979-1655  
Attn: Henry Ryan

Subject to the terms of the Production Information Addendum Page and the OUTFRONT Media Terms and Conditions of Advertising Service each attached hereto and made a part hereof, "ADVERTISER/AGENCY" hereby contracts with OUTFRONT Media ("Company") for the display of advertising Copy ("Copy") on the outdoor advertising display(s) described below, commencing approximately on the commencement date of the Advertising Period listed below. Advertiser/Agency shall provide the Copy in the form and type specified by Company.  
**See Production Information Addendum page for shipping quantities and addresses.**

Market	Media/Location(s)	Size	GRP/ IMP 18+	Units	Advertising Period	No. of Periods	*	Period Cost
Boston, MA MBTA Digital	Liveboards	65"	:10/SPOT	24	01/18/21-01/31/21	.50	4W	\$3,200.00
Boston, MA MBTA Digital S/A Bonus	Liveboards	65"	:10/SPOT	24	02/01/21-02/14/21	.50	4W	\$0.00
Boston, MA MBTA Digital	Liveboards	65"	:10/SPOT	24	02/15/21-02/21/21	.25	4W	\$3,200.00
Boston, MA MBTA Digital	Liveboards	65"	:10/SPOT	24	02/22/21-02/28/21	.25	4W	\$3,200.00

**Special Instructions:**

Digital Bulletins - Rotary Group A: 99N, 100S, 124N, 87W, 88E

Digital Bulletins - Rotary Group B: 120S, 90N, 89S, 121N, MA61S, 127S

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\* Period Codes: M=Monthly; W=Weekly; 4W=4 Weeks; D=Daily; OT=One Time TF=Till Forbid



**ADVERTISER AGREEMENT - PRODUCTION INFORMATION ADDENDUM**

PAGE 7 OF 14

**OUTFRONT/**CONTRACT NO.: **3085099**

DATE: 02/12/20

ADVERTISER: Lynn Auditorium

ACCOUNT EXECUTIVE: Steve Rex (J21)

BRAND:

CAMPAIGN:

Advertiser Bill-To# 1129764

Lynn Auditorium

3 City Hall Sq

Room 311

Lynn, MA 01901

978-979-1655

Attn: Henry Ryan

***Copy must meet Production specifications and be received 10 working days prior to each advertising period.***

THIS AGREEMENT AND THE COPY TO BE DISPLAYED HEREUNDER IS SUBJECT TO THE APPROVAL OF OUTFRONT MEDIA'S MARKET GENERAL MANAGER AND THE OWNER OF THE LOCATION AS APPLICABLE

Market	Media/Location(s)	Size	Copy Due Date	Shipping Quantity	Shipping Address	Service AE	Ext. Fab Per Sq Ft
Boston, MA	Digital Bulletins - Rotary/Sho		02/17/20	2	@Boston Digital Outdoor Contact your OUTFRONT AE Boston,MA		
Boston, MA	Digital Bulletins - Rotary/Sho		02/17/20	2	@Boston Digital Outdoor Contact your OUTFRONT AE Boston,MA		
Boston, MA MBTA Digital S/A Bonus	Liveboards	65"	02/17/20	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		
Boston, MA MBTA Digital	Liveboards	65"	03/02/20	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		
Boston, MA MBTA Digital S/A Bonus	Liveboards	65"	03/16/20	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		

**ADVERTISER AGREEMENT - PRODUCTION INFORMATION ADDENDUM**

PAGE 8 OF 14

**OUTFRONT/**CONTRACT NO.: **3085099**

DATE: 02/12/20

ADVERTISER: Lynn Auditorium

ACCOUNT EXECUTIVE: Steve Rex (J21)

BRAND:

CAMPAIGN:

Advertiser Bill-To# 1129764

Lynn Auditorium

3 City Hall Sq

Room 311

Lynn, MA 01901

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MARKET GENERAL MANAGER AND THE OWNER OF THE LOCATION AS APPLICABLE

Market	Media/Location(s)	Size	Copy Due Date	Shipping Quantity	Shipping Address	Service AE	Ext. Fab Per Sq Ft
Boston, MA MBTA Digital	Liveboards	65"	03/30/20	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		
Boston, MA MBTA Digital S/A Bonus	Liveboards	65"	04/13/20	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		
Boston, MA MBTA Digital	Liveboards	65"	04/27/20	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		
Boston, MA MBTA Digital S/A Bonus	Liveboards	65"	05/11/20	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		
Boston, MA MBTA Digital	Liveboards	65"	05/25/20	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		

**ADVERTISER AGREEMENT - PRODUCTION INFORMATION ADDENDUM**

PAGE 9 OF 14

**OUTFRONT/**CONTRACT NO.: **3085099**

DATE: 02/12/20

ADVERTISER: Lynn Auditorium

ACCOUNT EXECUTIVE: Steve Rex (J21)

BRAND:

CAMPAIGN:

Advertiser Bill-To# 1129764

Lynn Auditorium

3 City Hall Sq

Room 311

Lynn, MA 01901

978-979-1655

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Market	Media/Location(s)	Size	Copy Due Date	Shipping Quantity	Shipping Address	Service AE	Ext. Fab Per Sq Ft
Boston, MA MBTA Digital S/A Bonus	Liveboards	65"	06/08/20	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		
Boston, MA MBTA Digital	Liveboards	65"	06/22/20	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		
Boston, MA MBTA Digital S/A Bonus	Liveboards	65"	07/06/20	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		
Boston, MA MBTA Digital	Liveboards	65"	07/20/20	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		
Boston, MA MBTA Digital S/A Bonus	Liveboards	65"	08/03/20	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		

**ADVERTISER AGREEMENT - PRODUCTION INFORMATION ADDENDUM**

PAGE 10 OF 14

**OUTFRONT/**CONTRACT NO.: **3085099**

DATE: 02/12/20

ADVERTISER: Lynn Auditorium

ACCOUNT EXECUTIVE: Steve Rex (J21)

BRAND:

CAMPAIGN:

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3 City Hall Sq

Room 311

Lynn, MA 01901

978-979-1655

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MARKET GENERAL MANAGER AND THE OWNER OF THE LOCATION AS APPLICABLE

Market	Media/Location(s)	Size	Copy Due Date	Shipping Quantity	Shipping Address	Service AE	Ext. Fab Per Sq Ft
Boston, MA MBTA Digital	Liveboards	65"	08/17/20	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		
Boston, MA MBTA Digital S/A Bonus	Liveboards	65"	08/31/20	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		
Boston, MA MBTA Digital	Liveboards	65"	09/14/20	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		
Boston, MA MBTA Digital S/A Bonus	Liveboards	65"	09/28/20	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		
Boston, MA MBTA Digital	Liveboards	65"	10/12/20	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		

**ADVERTISER AGREEMENT - PRODUCTION INFORMATION ADDENDUM**

PAGE 11 OF 14

**OUTFRONT/**CONTRACT NO.: **3085099**

DATE: 02/12/20

ADVERTISER: Lynn Auditorium

ACCOUNT EXECUTIVE: Steve Rex (J21)

BRAND:

CAMPAIGN:

Advertiser Bill-To# 1129764

Lynn Auditorium

3 City Hall Sq

Room 311

Lynn, MA 01901

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Attn: Henry Ryan

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Market	Media/Location(s)	Size	Copy Due Date	Shipping Quantity	Shipping Address	Service AE	Ext. Fab Per Sq Ft
Boston, MA MBTA Digital S/A Bonus	Liveboards	65"	10/26/20	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		
Boston, MA MBTA Digital	Liveboards	65"	11/09/20	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		
Boston, MA MBTA Digital Guar Bonus	Liveboards	65"	11/23/20	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		
Boston, MA MBTA Digital	Liveboards	65"	12/07/20	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		
Boston, MA MBTA Digital S/A Bonus	Liveboards	65"	12/21/20	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		

**ADVERTISER AGREEMENT - PRODUCTION INFORMATION ADDENDUM**

PAGE 12 OF 14

**OUTFRONT/**CONTRACT NO.: **3085099**

DATE: 02/12/20

ADVERTISER: Lynn Auditorium

ACCOUNT EXECUTIVE: Steve Rex (J21)

BRAND:

CAMPAIGN:

Advertiser Bill-To# 1129764

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3 City Hall Sq

Room 311

Lynn, MA 01901

978-979-1655

Attn: Henry Ryan

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MARKET GENERAL MANAGER AND THE OWNER OF THE LOCATION AS APPLICABLE

Market	Media/Location(s)	Size	Copy Due Date	Shipping Quantity	Shipping Address	Service AE	Ext. Fab Per Sq Ft
Boston, MA MBTA Digital	Liveboards	65"	01/04/21	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		
Boston, MA MBTA Digital S/A Bonus	Liveboards	65"	01/18/21	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		
Boston, MA MBTA Digital	Liveboards	65"	02/01/21	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		
Boston, MA MBTA Digital	Liveboards	65"	02/08/21	24	@Boston Subway Onsmartmedia Liveboards Contact your OUTFRONT AE Boston,MA		

1. As used in this herein, Company shall mean OUTFRONT Media and Advertiser shall mean and be deemed to include, in addition to Advertiser, any advertising agency or any other agent or licensee of Advertiser (collectively "Advertiser").

2. At least ten (10) working days before the estimated start date, Advertiser, at its sole expense, shall furnish and deliver to Company or to service points designated by Company, sufficient supply of advertising copy, in form and type specified by Company along with written notice to Company setting forth required posting instructions. If copy is not so received, a loss of service may occur or additional costs may be charged by Company although commercially reasonable efforts will be used to post copy as promptly as practicable after receipt from Advertiser. If Advertiser requests expedited installation within five working days of receipt of late received copy, a fee of not less than \$650 per location will be payable. In any event, if copy is not received in a timely manner, Company may use subject locations in any manner, without limiting Advertiser's liability to pay for such space prior to posting the late received copy. If Copy is furnished and delivered as required above and such Copy is not rejected by Company pursuant to the terms hereof (i) the Copy shall be posted, and (ii) in the case of showing based programs the Copy shall be Significantly Posted (as hereinafter defined) by Company within five (5) working days of the date for the commencement of the Advertising Period set forth on the first page of this Agreement. For the purposes hereof, a program shall be deemed to be Significantly Posted if at least 85% of the program has been posted. Nudity, pornographic, profane or obscene copy shall not be permitted. The character, design, text and illustrations on advertising copy and the material used shall be subject to approval by Company and by location owner, transit company/authority or third party controlling location ("Owner"). If copy is rejected, Advertiser shall continue to be liable for the full term of this Contract and Advertiser shall be responsible for providing an acceptable replacement copy within ten days of notification that a previous copy was rejected. If production is received after the date specified by Company, Company shall be entitled to full payment for the contract period even if partial or no display results. Advertiser shall indemnify, defend and save harmless Company and Owner against all claims and liabilities arising out of the advertising material displayed under this Contract, including but not limited to any claim for defamation, or infringement of any copyright, trademark, or other intellectual property or privacy right and reasonable attorneys' fees and expenses incurred in defending any such claims.

3. Should Advertiser's copy be damaged, defaced, or deteriorated for any reason whatsoever, including ordinary wear and tear, or if lost or stolen, Advertiser shall furnish a replacement copy, upon Company's request, without liability or expense to Company. If Advertiser fails to provide such replacement copy, Company may use the location involved in any manner, without releasing Advertiser from obligation to pay for such location. Unless otherwise specified on the face hereof, there will be a service charge for all installations on walls and for any changes in any display material after initial placement. All designs for displays produced by Company will be faithfully reproduced. Company will maintain displays in good condition to the extent of matters reasonably within Company's control or assumed responsibilities. Any repainting or reposting requested by Advertiser in addition to that specified herein, if any, shall be paid by Advertiser in advance per Company's current quoted prices.

4. If for any reason whatsoever during the term hereof (i) Company is unable to secure any specified location or loses the right to use any location, or (ii) any location becomes

obstructed, destroyed or defaced, or (iii) Company fails to timely meet its posting requirements hereunder, any resulting loss of advertising shall not be deemed a breach or termination of this Contract. Company shall have the option to replace lost locations with locations of equal value per Company's prices and/or classifications, or to issue a pro-rated credit. Any delay in commencing of service and/or posting of fewer locations than specified and/or resulting loss of advertising service caused by any reason whatsoever, shall not render Company liable for any damages or offsets of any kind and shall be remedied solely by extending the Advertising Period of this Contract to provide an equivalent amount of advertising service at the contracted location or a replacement location of equal value, or at Company's option, result in a pro-rated credit, with all other remedies at law or equity being expressly waived by Advertiser. Notwithstanding anything contained herein to the contrary, if any location is lost for any reason whatsoever, Company shall also have the option to terminate this Contract and receive payment in full for services through the termination date.

5. Where illuminated displays are provided, illumination will be from dusk to midnight. If illumination is halted or reduced for any reason, including but not limited to operation of law or malfunction of equipment, Advertiser shall receive a credit for the period of reduced or non-illumination at the rate of fifteen percent (15%) of the contract price for the impacted period, provided Advertiser shall have first given written notice to Company of the illumination problem and same continues for more than five (5) days after Company's receipt of such notice.

6. Advertiser shall inspect the display within three (3) days after installation. Unless within such period Advertiser gives written notice to Company specifying any defect, the display shall be conclusively presumed to have been inspected and approved by Advertiser for all purposes whatsoever, including content and location of displays. If after installation of display Owner disapproves any advertisement, or if adverse publicity results from any display, Company shall have the right to remove advertisement and, at its option, either terminate this Contract or request a new acceptable advertisement copy pursuant to paragraph 2 above. Company and Advertiser accept this Contract subject to all federal, state and municipal laws and regulations. In the event any advertisement becomes illegal, Company reserves the right to terminate same upon notice to Advertiser. Acceptance of this Contract is subject to credit check and approval by Company. Company, in its sole discretion, may extend or reject credit, or at any time during the term, withdraw credit and Company may thereupon require partial or full payment of the remaining contract amount in advance. In the event of any termination under this paragraph, Advertiser's obligation shall cease as of the effective termination date.

7. Agency and Advertiser shall be jointly and severally liable for payment of the amounts owed under this Contract. In the event of default or material breach by Advertiser/Agency, in addition to other remedies available at law, Company may: (a) cancel this Contract without prior notice and demand payments of all amounts remaining due and owing; (b) without terminating this Contract, declare the entire balance of payments to be made hereunder immediately due and payable; (c) remove all of Advertiser's displays without limiting Advertiser's liability hereunder; and/or (d) declare Advertiser in default under any other agreement with Company. Waiver by Company of any breach by Advertiser/Agency hereunder shall not prejudice the rights of Company with respect to any breach not specifically waived by Company. In the event of legal action arising out of this Contract, Company shall be entitled to recover its reasonable

attorneys' fees and out of pocket expenses. This Contract and all related claims shall be construed according to the laws of the State of Arizona and Maricopa County, Arizona shall be the proper and exclusive legal jurisdiction and venue for any resulting legal action.

8. Invoicing will be rendered monthly in advance dating from the commencement date of the first advertising period. Invoices rendered to Advertiser shall be conclusive as to the correctness of the items stated unless Company receives written objection within fifteen (15) days thereof. Non-receipt of invoices or lack of invoicing, shall not impact Advertiser's liability hereunder. Any discounts given shall be forfeited/reversed for invoices not paid within sixty (60) days from the date thereof. All rates and adjustments are computed on the basis of thirty (30) days to the month, unless a different period is specified on the face hereof. Invoices shall be due thirty (30) days after the date of invoice and failure to pay within such timeframe shall result in a default hereunder and shall further be deemed a default under any other agreements with Company. Invoices not paid when due shall accrue interest at the rate of one and one-half percent (1.5%) per month (18% annual), or such lesser rate permitted by law. Notwithstanding the foregoing, in the event that Company accepts payment by ACH or credit card, Company shall have the right, at Company's option, to either (a) require Advertiser to pay all amounts due or coming due under the Contract on the date of the ACH or credit card payment or (b) require Advertiser to set up recurring payments whereby the Advertiser's ACH or credit card is charged on each invoice date for the full invoice amount.

9. Company shall not be held responsible for unused posters, displays or other copy provided by Advertiser and Company may dispose of any such materials. Company may promote Company's own business through the use of Advertiser's posters or displays in any manner whatsoever. Company is an Equal Opportunity Employer.

10. This Contract contains the full agreement of the parties, and no prior representation or assurance, verbal or written not contained herein, shall affect or alter the obligation of either party hereto. This Contract is not cancelable or assignable by Advertiser, nor may the subject of the advertising be changed without the consent of Company. Notwithstanding the foregoing, agreements for transit displays may be cancelled by Advertiser upon providing at least 90-days written notice prior to affected posting date, with Advertiser paying, upon invoicing, short rate for actual length of term.

11. The following provisions shall be applicable in the event that this Contract shall be for the display of advertising copy on a LED, LCD or other digital display sign ("Digital Sign"): Notwithstanding anything herein to the contrary, the Company shall be not obligated to display the copy for more than 91% of the display time provided hereunder (the "Guaranteed Display Time"). If the Company displays the copy for at least the Guaranteed Display time, there shall be no reduction in the fee paid hereunder or extension of the term hereof. If the Company displays the copy for less than the Guaranteed Display Time, the Company shall, in its sole discretion, either

(i) terminate this Contract and reimburse the Advertiser for fees paid relating to the period for which the copy was not displayed for at least the Guaranteed Display Time, (ii) equitably extend the Advertising Period of this Contract at the contracted location or a replacement location of equal value, or (iii) issue to Advertiser a pro-rated credit for advertising services equivalent to the period for which copy was not displayed for the Guaranteed Display Time. The Advertiser hereby expressly waives all other remedies at law or equity, and the Company shall have no other liability to the Advertiser as a result of any failure to display the copy for at least the Guaranteed Display Time. In addition to the foregoing, the Company shall have the right at any time to preempt the display of copy in order to utilize the Digital Sign(s) for public service messages in connection with (i) an Amber Alert, or (ii) at the request of any Federal, State or local authority, any public emergency (including but not limited to emergencies related to homeland security) (an "Emergency Interruption"). In such event, the Company shall not be in breach of this Contract and the Company shall have no liability to the Advertiser pursuant to the preceding paragraph or otherwise as a result of any such Emergency Interruption. The Advertiser hereby expressly waives any remedies at law or equity to which the Advertiser might otherwise be entitled as a result of such Emergency Interruption. For the purposes of the provisions hereof pertaining to the display of advertising on a Digital Sign, "copy" shall be deemed to mean any advertisement displayed on such sign whether the same is animated, static or otherwise, specifically including, but not limited to, streaming content or digital images, as applicable.

12. Agency/Advertiser hereby represents, warrants and confirms that it is aware of the requirements of 18 U.S.C. §§ 2257-2257A and that it fully complies with them either by certifying to the U.S. Attorney General, in the form required by 28 C.F.R. § 75.9, that Agency/Advertiser collects and maintains individually identifiable information relating to models used in the advertisement to be displayed pursuant to the terms hereof (including but not limited to their names, addresses, and dates of birth) in accordance with applicable Federal and/or State tax and labor or other law, or that Agency/Advertiser creates, maintains, cross-indexes and makes available for inspection records as required by 28 C.F.R. §§ 75.2-75.5. Upon request, Agency/Advertiser will provide Company with proof of its compliance.

13. If the advertising copy concerns a political, religious or social issue, the Advertiser and Agency shall not make any press release or other public announcement or media outreach regarding this Agreement or the related advertising copy that refers to the Company without the Company's express prior written consent (which consent may be granted or denied in the Company's sole discretion), except as required under applicable law, in which case Advertiser shall obtain the approval of the Company as to the form, nature and extent of the press release, public announcement or media outreach prior to issuing the press release or making the public announcement.

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End of Terms and Conditions





**Client Name:** CITY OF LYNN  
**Project:** Travel & Tourism video  
**Date:** May 10, 2021

**ISSUED TO:**  
James Marsh  
jmarsh@lynnma.gov

TASK NO:	ACTIVITY
NO.1	Create – from concept to final product – an approximately one (1) to three (3) minute video showcasing and promoting the City of Lynn through its natural and public resources & amenities / business resources.



**Client Name:** CITY OF LYNN  
**Project:** Travel & Tourism video  
**Date:** May 10, 2021

**ISSUED TO:**  
 James Marsh  
 jmarsh@lynnma.gov

Total Project Cost:\$ 41,099

Due upon completion of 50% completion: \$ 25,000

Due upon final completion and delivery of all media: \$ 16,099

**PAYMENT - TERMS & CONDITIONS:**

Payment for Grand Optimist video production services and expenses must be completed within 30 days of invoice submission, or client is subject to a 1.5% late fee per 30 days past due.

If at any time, Client desires to make any changes or variations from the completed project, or the script(s) or storyboard(s) in the Specified Media(s) or from any material or work in progress and such changes result in additional costs to Producer, including person hours, reimbursement for such additional costs shall be payable in accordance with the terms of this Agreement for final payment.

AGREED AND SIGNED:

**CLIENT:**

Name/Title: james marsh Community development director

Signature: james marsh

Date: June 21, 2021

Client Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

AGREED AND SIGNED:

**PRODUCTION COMPANY:**

Name/Title: Christian Williams / Owner

Signature: Christian Williams

Date: June 21, 2021

Client Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

*George Markopoulos*  
 City Solicitor

*Thomas M McGee*  
 Mayor

**1. QUALITY**

It is the essence of this Agreement that all completed commercials and services supplied by Producer shall be of the highest applicable production standards. Producer agrees that the Film(s) and or Tape(s) shall be of first class quality, artistically produced with direction, photography, sound, art, animation, synchronization and other physical and aesthetic content of a technical quality equal to current standards for sound motion pictures of similar character and purpose and will conform with all network technical requirements.

**2. AGENCY/CLIENT RELATIONSHIP**

All rights, benefits, privileges and properties under this Agreement are vested in and are for the benefit of the Advertiser or its Agency acting in its behalf. All obligations, liabilities and duties of an Advertiser represented by an Agency under this Agreement are the joint and several obligations of Agency and Advertiser. Without reducing the joint and several obligations, liabilities and duties of the Advertiser and its Agency under this Agreement and without requiring the production company to first invoke or exhaust any remedies against one before proceeding against the other, the Contracting Client assumes primary responsibility for discharging such obligations, liabilities and duties.

**3. FURNISHING MATERIALS, SERVICES, & RELEASES**

**A. Agency/Client:** Agency/Client shall supply scripts, storyboards, product props, production notes, music, celebrity talent, creative guidance/supervision, and related clearances, unless otherwise noted in the Production Specifications and Estimate Form. If Producer is responsible for Editorial subcontract pursuant to Section E., Editorial, Agency/Client will supply Post Producer (either directly or through Producer where applicable), a Post Production Specification Sheet containing all requirements to be met by Post Producer and delivery instructions. Agency/Client will supply track or musical composition(s) unless otherwise specified.

**B. Producer:** shall supply everything required for complete production and delivery of the commercial(s) pursuant to the requirements of Addendum A. This includes but is not limited to commercial elements, dailies, sync dailies, finished commercials, production and directorial personnel, photographic and/or electronic recording, as specified, sound facilities as appropriate, materials, set, and/or location facilities, props, set dressing, set design and construction, animation, wardrobe, screening facilities, and appropriate delivery of materials. Producer shall deliver to Contracting Client consents, waivers or releases from all talent and all persons or entities who have rendered services to Producer in connection with the Specified Commercial(s) to the extent permissible by applicable union or guild agreements.

**4. CHANGES IN SPECIFICATIONS**

If at any time, Agency/Client desires to make any changes or variations from the script(s) or storyboard(s) in the Specified Commercial(s) or from any material or work in progress, and such changes result in additional costs to Producer, Producer agrees to notify the Contracting Client of the amount before any such additional costs are incurred and Producer shall proceed only after receiving approval (written or oral) from Authorized Representative, approval which will be binding to the terms of this Agreement. Reimbursement for such additional costs shall be payable in accordance with the terms of this Agreement for final payment.

**5. OWNERSHIP**

Except as otherwise provided herein, all rights, title and interest in and to the commercial(s) which are the subject of this Agreement, including all copyrights

therein as well as in and to all the exposed negatives, positives, out-takes and clips shall be the property of the Contracting Client.

The agency does reserve the right to use the footage for self promotion.

**6. SECURITY/CONFIDENTIALITY**

Producer understands that some information for said commercial(s) may be of a confidential and/or sensitive nature. Producer agrees, at Contracting Client's written request, to require, within reason, those engaged for the production to sign appropriate agreements not to discuss or disclose information about the product or the Specified Commercial(s) except as such disclosure may be necessary for Producer to produce commercial(s) in the usual and customary manner under this Agreement.

**7. INDEPENDENT CONTRACTOR**

It is understood that Producer's status under this Agreement is that of an independent contractor and that all persons engaged by Producer in performing its obligations shall not be deemed employees of Contracting Client. Producer shall make whatever payments may be due such persons and will comply with all governmental regulations. Producer shall indemnify and hold harmless Contracting Client against claims resulting from Producer's failure to comply with provisions of this Paragraph.

**8. AUDIT RIGHTS/DEFINITIONS**

**A.** Contracting Client shall have the right to audit Producer's Cost Plus Bid productions. Contracting Client agrees that audits shall occur no later than one year after the date hereof. Contracting Client shall not have any right to audit Producer's Firm Bid productions.

**B.** In a Cost Plus Bid production, Producer shall estimate the cost of all elements of a production based on the specifications provided by Contracting Client. A fixed fee is added to the total of the costs of all the elements, which total becomes the contract price. The Producer executes the actual production in accordance with the specifications, the objective being to bring the Specified Commercial(s) in on budget. Overages must be communicated and approved in advance by Authorized Representative, whenever possible. The actual costs of each Specified Commercial(s) are accumulated and reported on the bid form, reflecting both overages and underages. At the conclusion of the job, the Producer does a cost-accounting on the job, and the Contracting Client is billed the actual direct costs plus the predetermined fixed fee.

**C.** In a Firm Bid production, Producer shall submit a bid identifying direct costs, production fee, and director's fee. Once the bid has been accepted, it becomes the contract price for the job.

## 9. PRODUCER WARRANTIES

Producer represents and warrants:

- A.** That Producer has full right to enter into this Agreement and to perform its obligations hereunder and will comply with all applicable Federal, State and Local Laws, ordinances and regulations and with all applicable union agreements to which Producer is a signatory.
- B.** That upon delivery to Contracting Client of Specified Commercial(s), all union production payroll and any musician union fees, for individuals contracted by Producer, (e.g. IATSE, DGA, Teamsters) shall have been paid in accordance with the union contracts to which the Producer is a signatory, if any.
- C.** That Producer shall maintain accurate time records of shooting, meals, overtime and travel times to enable Contracting Client or signatory to make the appropriate session fee talent payments (as provided in Paragraph 10 below). No talent payments (SAG, AFTRA, AF of M) of any nature are to be made by Producer for Contracting Client's account unless otherwise specified in writing, or included on the original bid, as an accommodation to the Contracting Client.
- D.** That Producer will use reasonable efforts to obtain all licenses, consents and rights necessary and incident to the performance, reproduction and exhibition by television of each of the Specified Commercial(s) with respect to materials, elements and services provided by Producer.
- E.** That all performances, appearances and services rendered in connection with each Specified Commercial(s) for which Producer is responsible for payment, will be fully paid by the Producer and all rights, licenses, releases and contracts therefor will be obtained by Producer on behalf of Contracting Client.

## 10. CLIENT WARRANTIES

Contracting Client represents and warrants:

- A.** That Contracting Client will pay for all session fees for SAG, AFTRA, and AF of M on-camera or off-camera performances, and will discharge all obligations imposed upon employers under any federal, state or local laws for worker's compensation, unemployment compensation insurance, social security tax, state disability tax, payroll taxes and residual payments. Contracting Client is the contracting party (employer) for said talent. In addition, all talent union contracting forms (e.g. "Exhibit A's") and the filing thereof with various union offices, in connection with such talent, is the direct responsibility of the Contracting Client.
- B.** The representations and warranties made by Producer in Paragraph 9 above shall not apply to any material supplied by Contracting Client (e.g. scripts, storyboards, artwork, product or voice and music tracks, or any other material which is the basis for the Specified Commercial(s)) with respect to which Contracting Client makes the same representations and warranties to Producer that Producer has made to Contracting Client in Paragraph 9 above.

## 11. DELIVERY OF MATERIALS

Delivery of the Specified Commercial(s) shall mean delivery by Producer of dailies, negatives, positive prints, video tapes, sound tracks "as recorded," and such other material as specified herein to the editorial facility designated by Contracting Client, at which time Producer shall be released from any further liability, pursuant to Section E., Editorial.

## 12. PAYMENT

Contracting Client understands that the specified terms and dates of payment under this Agreement are based upon timely cash payments. If Contracting

Client chooses to defer paying any amount beyond the date on which it is due, Contracting Client may be charged at the Producer's discretion, as additional consideration, an amount equal to the current prime rate +1.5% (as charged by Producer's bank from time to time) on unpaid amounts until paid, compounded monthly. Ownership of the commercial does not transfer until full payment is made to Producer.

## 13. INDEMNIFICATION

Producer agrees to indemnify, defend, and hold harmless Contracting Client and its officers, employees, agents and licensees from and against any and all claims, actions, damages, liabilities and expenses, arising out of the breach of any obligation, warranty or representation of Producer in this Agreement. Contracting Client agrees to indemnify, defend, and hold harmless Producer and its officers, employees, agents and licensees from and against any and all claims, actions, damages, liabilities and expenses, arising out of the breach of any obligation, warranty or representation of Contracting Client in this Agreement.

## 14. ASSIGNMENT

This Agreement may not be assigned by either party without the written consent of the other.

## 15. INSURANCE COVERAGE

- A. If Producer is responsible to provide production insurance for said commercial(s), the following coverage shall apply:
  - (1) Producer shall obtain, pay for and maintain during the term hereof:
    - (a) Workers Compensation and Employers Liability for Producer's employee(s) at the site and time of production.
    - (b) Commercial General Liability in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage at the site and time of production.
    - (c) Film Production Package Policy consisting of Negative Film and Videotape and/or Production Media; Faulty Stock and/or Media Perils, Camera and Processing; Props, Sets and Wardrobe; Extra Expense; Miscellaneous Equipment; Third Party Property Damage; Monies and Securities; and Office Contents. The Negative Film and Videotape limit shall be sufficient to replace the elements paid for by the Producer during the original shoot against covered causes of loss. The Props, Sets and Wardrobe and Miscellaneous Equipment limits shall be sufficient to replace any damaged property. If the Agency/Client desires for the Producer to insure types of losses not listed above and/or production costs items originally paid for by the Agency/Client such request must be made in writing prior to the commencement of production, and Client shall reimburse Producer for any additional premiums arising from the request for such additional insurance.
  - (2) Producer shall at the written request of Agency/Client provide copies of Certificates of Insurance evidencing compliance with required insurance coverage as specified in 15.A(1)a-c.
  - (3) Agency/Client shall obtain, pay for and maintain Professional Liability (Errors and Omissions Liability) insurance covering all intellectual property right infringement(s) arising from any and all uses of the elements.
  - (4) Both Producer and Agency/Client each agree to promptly give the other party written notice of any claim.
  - (5) If any additional insurance is necessitated by a production in addition to the coverage outlined in 15.A(1)a-c, special coverage needs to be obtained on a job by job basis at Agency/Client expense. Agency/Client hereby acknowledges that unless requested by Agency/Client in writing, Producer is only providing insurance coverage as outlined in 15.A(1)a-c,

**B.** If Agency/Client is providing production insurance for said commercial(s), Producer will be notified in writing prior to signing this Agreement.

(1) Agency/Client will obtain and maintain insurance coverage as outlined in Paragraphs 16.A(1)b-g with respect to Agency/Client job(s) at no cost to Producer and name Producer and Director as a "named insured" on said policies prior to the commencement of preproduction.

(2) Agency/Client will provide a supply of Certificates of Insurance and/or have Certificates of Insurance issued on behalf of the Producer.

(3) Agency/Client will be responsible for any additional insurance premiums resulting from the need to purchase special coverage not provided by the coverage enumerated in 16.A(1)a-g and any and all deductibles associated with Agency/Client insurance program.

(4) Agency/Client shall obtain, pay for and maintain Professional Liability (Errors and Omissions Liability) insurance covering all intellectual property right infringement(s) arising from script and content provided by the Agency/Client.

(5) Both Producer and Agency/Client each agree to promptly give the other party written notice of any claim.

(6) Agency/Client will indemnify, defend and hold harmless Producer and Director for any and all claims, demands, actions including defense costs and attorneys fees for claims arising from the commercial(s) and the failure of the Agency/Client insurance program to be as broad as the Producer's coverage.

## 16. CONTINGENCY AND WEATHER DAYS

A. A contingency day is any day where a scheduled film or tape shooting has been prevented from occurring due to circumstances beyond the control of the production company.

B. These circumstances may include but should not be limited to :

(1) Weather conditions (rain, fog, sleet, hail, or any adverse condition that is not consistent with the prescribed shooting conditions desired by the Contracting Client).

(2) Injury, illness, or absence of client-supplied elements (e.g. key talent, color correct products).

(3) "Force majeure" (meaning but not limited to, earthquake, riot, fire, flood, volcanic eruption, acts of war, strikes, labor unrests, civil authority, terrorism, and acts of God).

(4) "Client Insured Re-Shoots" (any additional days for a job insured by the Agency/Client, who is therefore authorizing the expenditure). The Contracting Client should be provided with a contingency day cost which should be approved prior to proceeding with that shoot day.

C. The Production Company recognizes its obligation to minimize contingency day liabilities and will apply accepted industry cancellation practices.

D. The Production Company will quote the maximum exposure figure (a "not to exceed" figure) as a contingency day cost. This will be a cost per day figure. However, this figure does not include the cost of premiums for crew or suppliers (i.e., should the contingency day fall on weekends, holidays or premium days based on consecutive employment).

## 17. CANCELLATION AND POSTPONEMENT

A cancellation or postponement is defined as a rescheduling of the production to a later specific date caused or directed by Agency/Client or a total cancellation of the project. If the Production Company blocks out a specific period of time with the agreement that it represents a firm commitment from the Contracting Client, then the Production Company makes no further efforts to sell the time. If the job is canceled or postponed within the Guideline time frame, it is unlikely that this time can be re-booked. It should be understood that this time represents the Production Company's only source of income.

A. If notice of cancellation/postponement is given to the Producer ONE TO FIVE WORKING DAYS prior to the commencement of the shoot, the Contracting- Client will be liable to the Production Company for:

(1) All out-of-pocket costs.

(2) Full director's fee as bid.

(3) Full production fee on the job as bid.

B. If notice of cancellation/postponement is given SIX TO FIFTEEN WORKING DAYS prior to the commencement of the shoot, the Contracting- Client will be liable to the Production Company for:

(1) All out-of-pocket costs.

(2) Not less than 50% of director's fee as bid.

(3) Not less than 50% of production fee on the job as bid.

C. If notice of cancellation/postponement is given MORE THAN FIFTEEN WORKING DAYS prior to the commencement of the shoot, the Contracting-Client will be liable to the Production Company for:

(1) All out-of-pocket costs.

(2) Not less than 25% of the director's fee as bid.

(3) Not less than 25% of the production fee on the job as bid.

A. If notice of cancellation/postponement is given MORE THAN HALFWAY THROUGH the production schedule of the job, that is between the award or start date and the final delivery date, the Contracting Client will be liable to the Production Company for the full cost of the job as a bid.

B. If notice of cancellation/postponement is given IN THE SECOND QUARTER of the production schedule of the job, that is between the award or start date and the final delivery date, the Contracting Client will be liable to the Production Company for:

(1) All out of pocket costs, including the expense of all staff and free-lance labor attached to the project. This expense will include full payment through the original completion date if that labor is not re-booked by the company, or, in the case of the free-lance labor, not able to re-book itself on another project.

(2) Full creative fees as bid.

(3) Full production fee on the job as bid.

C. If notice of cancellation/postponement is given IN THE FIRST QUARTER of the production schedule of the job, that is between the award or start date and the final delivery date, the Contracting Client will be liable to the Production Company for:

(1) All out of pocket costs, including the expense of all staff and free-lance labor attached to the project. This expense will include full payment through the original completion date if that labor is not re-booked by the company, or, in the case of the free-lance labor, not able to re-book itself on another project.

(2) Not less than 50% of creative fees as bid.

(3) Not less than 50% of the production fee on the job as bid.

A. If notice of cancellation/postponement is given MORE THAN HALFWAY THROUGH the production schedule of the job, that is between the award or start date and the final delivery date, the Contracting Client will be liable to the Production Company for the full cost of the job as a bid.

B. If notice of cancellation/postponement is given IN THE SECOND QUARTER of the production schedule of the job, that is between the award or start date and the final delivery date, the Contracting Client will be liable to the Production Company for:

(1) All out of pocket costs, including the expense of all staff and free-lance labor attached to the project. This expense will include full payment through the original completion date if that labor is not re-booked by the company, or, in the case of the free-lance labor, not able to re-book itself on another project.

(2) Full creative fees as bid.

(3) Full production fee on the job as bid.

C. If notice of cancellation/postponement is given IN THE FIRST QUARTER of the production schedule of the job, that is between the award or start date and the final delivery date, the Contracting Client will be liable to the Production Company for:

(1) All out of pocket costs, including the expense of all staff and free-lance labor attached to the project. This expense will include full payment through the original completion date if that labor is not re-booked by the company, or, in the case of the free-lance labor, not able to re-book itself on another project.

(2) Not less than 50% of creative fees as bid.

(3) Not less than 50% of the production fee on the job as bid.

## 18. PUBLICITY GUIDELINES

Contracting Client, Production Company and Director each have A license to use finished commercial(s) or film(s) for promotional purposes.

## 19. DISPUTE RESOLUTION

If a dispute arises from or relates to this Agreement or the breach thereof, the parties agree first to try in good faith to settle the dispute by mediation under the Commercial Mediation Rules of the American Arbitration Association, before resorting to arbitration. If the dispute is not settled by mediation, the parties agree to submit the dispute to the American Arbitration Association for binding non appealable arbitration, in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect unless the parties mutually agree otherwise. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The award may be limited to a statement that one party pay the other a sum of money. The arbitrator(s) do not exceed their powers by committing an error of law or legal reasoning. All demands for mediation or arbitration shall be in writing and made by actual delivery or by certified or registered mail, return receipt requested, with a copy to the Association. The list of mediators or arbitrators proposed by the Association shall consist of those persons who are experienced in Client, Agency and Producer affairs and need not be attorneys. The arbitration shall be in the City of the Production Company as indicated on Page 1 of this Agreement. The prevailing party in the arbitration proceedings shall be entitled to attorney's fees and costs in connection with the arbitration proceedings and any legal action taken to enforce the award of arbitration.

## 20. ENTIRE AGREEMENT AND MODIFICATION

This Agreement and any Addenda attached hereto shall constitute the entire agreement between Producer and Contracting Client. Any amendment hereto must be in writing and signed by each party.

## 21. NO WAIVER

Failure of any party to this Agreement to exercise any rights shall not constitute a waiver of those rights.

## 22. ENFORCEABILITY

If one or more of the provisions of this Agreement shall be held unenforceable, it shall not affect the enforceability of the other provisions.

## 23. EQUAL OPPORTUNITY

In connection with its performance hereunder, Producer agrees not to discriminate against any employee or applicant because of race, religion, sexual orientation, color, sex, national origin, age, disability, or any other factor protected by federal, state or local law.

## 24. APPLICABLE LAW

This Agreement shall be interpreted and governed by the local laws of the jurisdiction where the the Production Company office authorizing this Agreement is located as set forth on Page 1 of this Agreement.