

File No. 200222

Committee Item No. 2

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight

Date: July 17, 2020

Board of Supervisors Meeting:

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

#### Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

#### OTHER

- CCO Correspondence – July 7, 2020
- JCDecaux Letter – June 30, 2020
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Prepared by: John Carroll

Date: July 14, 2020

Prepared by: John Carroll

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

1 [Urging Invalidation of 2019 Revenue Agreement - JC Decaux]

2

3 **Resolution urging Public Works and the Office of the City Attorney to take immediate**  
4 **steps to cancel the City and County of San Francisco’s Revenue Agreement with JC**  
5 **Decaux, including ceasing implementation of its lucrative Grant of Advertising Rights.**

6

7 WHEREAS, Since August 2, 1994, the City and County of San Francisco and JC  
8 Decaux San Francisco, Inc. (formerly JC Decaux United Street Furniture, Inc., hereinafter “JC  
9 Decaux”) has provided public toilets and newspaper kiosks which also serve as advertising  
10 space in San Francisco’s public rights of way pursuant to a contractual agreement that has  
11 been amended from time to time over the past quarter century; and

12 WHEREAS, On April 26, 2016, the San Francisco Department of Public Works (“Public  
13 Works”) issued a competitive solicitation through its Request for Proposals public toilets and  
14 advertising kiosks to which JC Decaux was the sole respondent, only two months later, on  
15 June 24, 2016; and

16 WHEREAS, The April 2016 Request for Proposal followed an initial Request for  
17 Proposal in 2015 which, among other provisions, required submissions within an abbreviated  
18 period of just 120 days, which was ultimately altered and re-issued as the April 2016 Request  
19 for Proposal; and

20 WHEREAS, On July 23, 2019, the Board of Supervisors retroactively approved the  
21 resulting Revenue Agreement between Public Works and JC Decaux (the “2019 Revenue  
22 Agreement”) for an automatic public toilet and public service kiosk program with anticipated  
23 revenues of approximately \$12,950,000 over a term of 21.5 years commencing on  
24 July 1, 2019; and

25

1           WHEREAS, Under the Revenue Agreement, the approximately \$12,950,000 in  
2 revenue over 21.5 years consists of a one-time payment of \$1,500,000, an Annual  
3 Administrative Fee, and an Advertising Revenue Percentage Fee, and a Non-Advertising  
4 Percentage Fee; and

5           WHEREAS, Over the course of 20 years between 1997 and 2017, JC Decaux  
6 generated approximately \$125 million in ad revenue through its kiosks situated in San  
7 Francisco’s public rights of way, and paid a dismal 5.8 percent of that revenue to the City, for  
8 a total of about \$7.3 million in revenue, or approximately \$365,000 per year; and

9           WHEREAS, The analogous advertising revenue agreement between the City and  
10 County of San Francisco and Clear Channel for utilization of advertising space on Muni  
11 shelters requires the remittance of 55 percent of ad revenue to the City, while the advertising  
12 revenue agreement between the City and County of San Francisco and Titan Outdoor for the  
13 utilization of advertising space on Muni vehicles requires the remittance of 65 percent of ad  
14 revenue to the City; and

15           WHEREAS, On January 28, 2019, the United States District Court for the Northern  
16 District of California unsealed a 75-page criminal complaint announcing fraud charges against  
17 former Director of Public Works Mohammed Nuru, who in his capacity as Director of Public  
18 Works oversaw the terms set forth in both the 2015 and 2016 Requests for Proposal and the  
19 negotiations which resulted in the renewed 2019 Revenue Agreement; and

20           WHEREAS, Throughout this process, then-Director Nuru personally lobbied several  
21 members of the Board of Supervisors to ensure that the 2019 Revenue Agreement would  
22 ultimately be adopted by the City and County of San Francisco; and

23           WHEREAS, In the wake of voluminous allegations of fraud on behalf of then-Director  
24 Nuru over the course of this time period, additional concerns have surfaced regarding the  
25 relationship between Nuru and JC Decaux, including concerns set forth in local news outlet

1 Mission Local that Nuru was “wined and dined” at JC Decaux’s “elegant waterfront farmhouse  
2 in the bucolic Parisian suburb of Plaisir;” and

3 WHEREAS, The Board of Supervisors understands that the independent Office of the  
4 City Attorney is investigating the circumstances surrounding these allegations specifically as  
5 they relate to the 2019 Revenue Agreement; and

6 WHEREAS, The Board of Supervisors is deeply concerned that those allegations will  
7 result in findings that the City was misled as to its leverage in the crafting of the Request for  
8 Proposal and resulting 2019 Revenue Agreement, including with respect to the Advertising  
9 Revenue Percentage Fee, and that it was fraudulently induced into the 2019 Revenue  
10 Agreement; now, therefore, be it

11 RESOLVED, That the Board of Supervisors of the City and County of San Francisco  
12 urges the San Francisco Department of Public Works and the Office of the City Attorney to  
13 inform the Board of Supervisors of its legal status relative to canceling the City’s contract with  
14 JC Decaux as reflected most recently in the 2019 Revenue Agreement; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors urges Public Works and the  
16 City Attorney’s Office to take all legal steps to cease any further implementation of the 2019  
17 Revenue Agreement, including invalidating the Grant of Advertising Rights which have  
18 generated enormous profits for JC Decaux through its appropriation of public rights of way,  
19 with minimal reciprocal benefit to San Francisco residents and visitors.

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**From:** [Schmitt, Bob](#)  
**To:** [Peskin, Aaron \(BOS\)](#); [Carroll, John \(BOS\)](#)  
**Subject:** Requested Documentation from Government and Audit Committee Hearing July 2nd 2020- JCD contract invalidation  
**Date:** Tuesday, July 7, 2020 10:37:45 AM  
**Attachments:** [RFP Public Toilet and Kiosk Agreement.msg](#)  
[SF RFP Questions - Public Toilet Kiosks.docx](#)  
[RFP #1 Number of Advertising.png](#)  
[CCO cover letter and Proposal for RFP #1 dated December 16th 2015..docx](#)  
[SF PT PSK - Revised Executive Summary 2016 -REDACTED \(version 2\).pdf](#)  
[SF PT PSK - Addendum No. 3 Q A 12 4 2015 w questions answered.pdf](#)

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Dear Commission Clerk Carroll and Supervisor Peskin,

As requested in the Thursday July 2<sup>nd</sup> Government and Audit committee hearing kindly find documentation to support my public comments relative to the following:

- Questions submitted to DPW for RFP # 1 via email from CCO dated November 10<sup>th</sup>, 2015. The most relevant questions are 5, 8,9,10,11,16
  - Those questions were intended to seek clarity into what we considered a vague RFP. Specific questions around design elements, use of existing equipment during installation process, clarify how Prop E was incorporated into RFP intention
  - See DPW responses to all questions submitted- attachment SF PT PSK- Addendum No. 3. See responses to questions 5, 8,9,10,11, 14, 21, 23, 24, 36, 37, 38, 39.
- Copy of paragraph G. Advertising under Section III from the RFP #1 relative to the number of signs permitted
  - Incorporated Prop G & Prop E. (*clearly states number of ad panels cannot be increased*). Addendum No. 3 reinforced this point.
- CCO cover letter and Proposal for RFP #1 dated December 16<sup>th</sup> 2015.
  - Incorporates multiple references to “unique and creative approach”, “creative and flexible approach” in responding to the RFP
  - Includes one time upfront payment of \$500,000 to purchase toilets and advertising kiosks
  - Offers details and a concept on how to incorporate community based organizations like Hunters Point Family, Tenderloin Housing Clinic into the contract.
- Memo dated June 3<sup>rd</sup> 2016 to CCO executive team recommending that CCO not submit a proposal for the Re-advertised Public Toilet & Kiosk Agreement
  - Mentions pre bid meeting where DPW states there are no right to purchase existing toilets in place.
  - Mentions the advantages to the incumbent. Timing requirements, logistics and costs
- Revision to Evaluation Criteria between RFP #1 and RFP #2
  - Selection Criteria RFP #1

- Revenue Proposal 65 points
- Organization and Management Approach 5 points
- Maintenance and Monitoring 10 points
- Design 5 points
- Communications 5 points
- Oral Interview- 5 points
- Total 100 points
- Selection Criteria RFP #2
  - Project Approach (20 pts) – previous RFP (5 pts)
  - Assigned Project Staff (10 pts)
  - Experience of Firm and Subconsultants (10 pts)
  - Revenue and Fee Proposal (20 pts) – previous RFP (65 pts)
  - Oral Interview (40 pts) – previous RFP (5 pts)
  - Total 100 points

Let me know if you any addition questions.

Sincerely

**From:** [Shinn, Stephen](#)  
**To:** [DPW-ToiletAndKioskRFP](#)  
**Cc:** [Qualls, Bruce](#); [Schmitt, Bob](#); [Landgraf, Amy](#)  
**Subject:** RFP Public Toilet and Kiosk Agreement  
**Date:** Tuesday, November 10, 2015 2:27:39 PM  
**Attachments:** [image004.png](#)  
[SF RFP Questions - Public Toilet & Kiosks.docx](#)

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DPW,

Attached for your consideration are questions regarding the subject RFP. We will be looking forward to receiving your timely response as soon as possible.

Thank you,

Steve



**Stephen Shinn**  
Senior Real Estate Representative

555 12<sup>th</sup> Street, Ste 950  
Oakland, CA 94607  
D 510.446.7216  
[clearchanneloutdoor.com](http://clearchanneloutdoor.com)

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**SAN FRANCISCO – RFP  
PUBLIC TOILET & KIOSK AGREEMENT**

1. The Tentative Schedule does not indicate when the Proposers would receive answers to written questions submitted by November 13, 2015. Based on the response to the questions, it does not provide sufficient time to react and then revise our Proposal by the Deadline for Submission: November 20, 2015. Respectfully, we would ask that the due date be extended to January 20, 2016.
2. Ordinance No. 13-09 was passed in January 2009, which amend the San Francisco Administrative Code to prohibit advertisements for alcoholic beverages on City property. Please confirm alcohol advertising will not be allowed per the terms of the new agreement.
3. Please provide the current 2015 advertising revenues from the Public Service Kiosks.
4. Please confirm the date the current contract terminates. Is it October 17, 2016 or January 17, 2017?
5. On page 3 of the RFP, listed under the Aesthetics for the design elements, it would be helpful if the some items were more defined, such as:
  - What is a contemporary design?
  - The context for creating and use of a unique font?
  - How many interactive advertising screens?
  - How many advertising panels could be digital LED versus static?
6. The current agreement required a performance bond of two-million dollars (\$2,000,000), which was reduced to five-hundred thousand dollars (\$500,000) after installation was completed. This RFP is requesting a commitment of ten-million dollars (\$10,000,000) for the performance bond. Would DPW consider reducing the amount of the performance bond required?
7. The Evaluation Criteria table indicates the Revenue Proposal is worth a total of 65 Total Points for the highest proposal, but the examples for calculating uses a total of 75 points, please clarify.
8. For the convenience and the public's continued use, would the existing public toilets become the property of the City and/or transferred to the possible new contractor for operation until the new toilet and kiosks are installed? If not, when would the current contractor be required to remove all of the existing public toilets and kiosks?



9. Does DPW know what was the total capital cost expense investment made by JC DeCaux for the existing twenty-five (25) public toilets and one-hundred and fourteen (114)? What is the unamortized value that a new contractor may have to pay to transfer the ownership?
10. Does DPW know the assessed value and/or real estate possessory interest taxes for the public toilets and kiosks paid by JC DeCaux for 2014?
11. Due to Proposition E (2009) there can be no increase in the number of advertising signs allowed on street furniture. Does DPW have any flexibility to allow more advertising to support the Proposer's ability to finance the significant capital investment required by this RFP?
12. Per the Section 603 of the City's Sign Code, the general advertising signs shall not exceed 52 sq. ft., but does not specify the format dimensions. Would the Proposer be required to adhere to a vertical format as stated in the current contract (not to exceed 12' high by 5' wide) or could we propose of a horizontal or square format?
13. The current contract and Sign Code states the public service kiosks are divided into three sections, two ad panels and one public service use. To the best of our knowledge, many (or possible all) of the kiosks designed for a newsstand or other public service use are no longer in operation for the uses that were intended. If there is no required, requested or necessary public service use, would it be possible to utilize the third section for advertising purposes?
14. If new contractor negotiates an agreement for a commercial use like an ATM for the kiosk's public service section would the contractor be allowed to retain all the revenue?
15. On page 10, the Special Note under B. Selection Process it states the City may opt to select more than one bidder. This does not seem consistent with other terms and intent of the RFP. Please explain a possible scenario where one of more companies could be selected? Could the City select one company to provide the public toilets and another company to provide the kiosks?
16. Are all of the 25 currently installed public and the 25 additional toilets, contemplated to be installed and/or located at permanent fixed locations?
17. What is the proposed timeline goal for the replacement the existing and/or installation of the new public toilets and the replacement of the kiosks? The current contract allowed for a five (5) year six (6) month construction phase from the date permits were issued per the terms of a twenty (20) year contract.
18. During the term of the new contract, the City may request the removal or relocation of up to five (5) public toilets or kiosks per year. Is this the total combined number or could it be as many as five (5) public toilets and five (5) kiosks per year?

19. What is the encroachment permit fee for a public toilet and a public service kiosk? The current contract set these permit fees to be \$350.00 per toilet and kiosk. Should we assume the fees will be the same per the terms of the new contract?

**SAN FRANCISCO – RFP  
PUBLIC TOILET & KIOSK AGREEMENT**

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15. On page 10, the Special Note under B. Selection Process it states the City may opt to select more than one bidder. This does not seem consistent with other terms and intent of the RFP. Please explain a possible scenario where one of more companies could be selected? Could the City select one company to provide the public toilets and another company to provide the kiosks?
16. Are all of the 25 currently installed public and the 25 additional toilets, contemplated to be installed and/or located at permanent fixed locations?
17. What is the proposed timeline goal for the replacement the existing and/or installation of the new public toilets and the replacement of the kiosks? The current contract allowed for a five (5) year six (6) month construction phase from the date permits were issued per the terms of a twenty (20) year contract.
18. During the term of the new contract, the City may request the removal or relocation of up to five (5) public toilets or kiosks per year. Is this the total combined number or could it be as many as five (5) public toilets and five (5) kiosks per year?

19. What is the encroachment permit fee for a public toilet and a public service kiosk? The current contract set these permit fees to be \$350.00 per toilet and kiosk. Should we assume the fees will be the same per the terms of the new contract?



## ADDENDUM No. 3

### Request for Proposals for Public Toilet and Kiosks Agreement

December 4, 2015

Edwin M. Lee  
Mayor

Mohammed Nuru  
Director

Fuad Sweiss, PE, PLS  
City Engineer &  
Deputy Director

**Office of the City Engineer**  
Infrastructure Design  
and Construction  
San Francisco Public Works  
1 Dr. Carlton B. Goodlett Pl.  
Room 348  
San Francisco, CA 94102  
tel 415-554-6940

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The Request for Proposals (RFP) for the aforementioned services is amended in accordance with the following revisions which are made part of said RFP.

#### Submittal Deadline:

REVISED – Due 4:00 P.M. on ~~December 4, 2015~~ ***December 16, 2015***

#### Revised RFP:

The RFP posted on October 13, 2015 has been replaced in its entirety and amended with the revised RFP dated December 4, 2015.

A red-lined version of the revised RFP dated December 4, 2015 has been added, for the purpose of referencing changes only.

#### Attachments:

The following attachments are included with this Addendum No. 3:

- Summary of Questions and Responses
- Table 3.1 – Revenue

#### Note:

- ~~Red~~ with strikethrough texts are deleted texts
- ***Blue*** bold italic texts are revised or added texts

**Public Toilets and Kiosks  
Summary of Questions and Responses**

No.	Question	Response
1	The Tentative Schedule does not indicate when the Proposers would receive answers to written questions submitted by November 13, 2015. Based on the response to the questions, it does not provide sufficient time to react and then revise our Proposal by the Deadline for Submission: November 20, 2015. Respectfully, we would ask that the due date be extended to January 20, 2016.	The proposal due date is extended to Dec 16, 2016. Please refer to Addendum No. 3.
2	Ordinance No. 13-09 was passed in January 2009, which amend the San Francisco Administrative Code to prohibit advertisements for alcoholic beverages on City property. Please confirm alcohol advertising will not be allowed per the terms of the new agreement.	Confirmed. Advertising prohibition can be found in SEC. 4.20. TOBACCO PRODUCT, SUGAR SWEETENED AND ALCOHOLIC BEVERAGE ADVERTISING PROHIBITION. <a href="http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances15/o0098-15.pdf">http://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances15/o0098-15.pdf</a>
3	Please provide the current 2015 advertising revenues from the Public Service Kiosks.  Can you please provide gross advertising revenues going back three years, broken out by PT and PSK? Additionally, can The Authority please provide inventory numbers for both PSK and PT in that same time period?	Please refer to the attached Table 3.1 for this information.
4	Please confirm the date the current contract terminates. Is it October 17, 2016 or January 17, 2017?	Current contract terminates October 17, 2016. The City has the authority to extend the current contract if necessary.
5	On page 3 of the RFP, listed under the Aesthetics for the design elements, it would be helpful if the some items were more defined, such as: a. What is a contemporary design? b. How many interactive advertising screens? c. How many advertising panels could be digital LED versus static?	a. Please propose your new design for consideration using the latest technology and the best materials available b. One per kiosk c. No more than 2 panels per street side in 4 City blocks along a corridor should have a digital LED sign (one panel on each side of the street). Images should be static for a minimum of 8 seconds before they change. No animation allowed.
6	The current agreement required a performance bond of two-million dollars (\$2,000,000), which was reduced to five-hundred thousand dollars (\$500,000) after installation was completed. This RFP is requesting a commitment of ten-million dollars (\$10,000,000) for the performance bond. Would DPW consider reducing the amount of the performance bond required?  Would a letter of credit in the amount of \$12 million be an acceptable alternate?	Yes. Five million performance bond, reduced to one million after installation.  Yes.
7	The Evaluation Criteria table indicates the Revenue Proposal is worth a total of 65 Total Points for the highest proposal, but the examples for calculating uses a total of 75 points, please clarify.	Total points for the revenue proposal and Minimum Annual Guarantee points used in the examples for calculating should be together is 65 points.

8	For the convenience and the public's continued use, would the existing public toilets become the property of the City and/or transferred to the possible new contractor for operation until the new toilet and kiosks are installed? If not, when would the current contractor be required to remove all of the existing public toilets and kiosks?	No. Existing toilets and kiosks belong to existing contractor. Selected Proposer will need to provide the Public Toilets and Kiosks within 120 days after issuance of permit. If the selected Proposer needs more than 120 days after issuance of permit to install the toilets, this will have to be negotiated in the contract. Please propose your transition plan if you need more than 120 days.
9	Does DPW know what was the total capital cost expense investment made by JC DeCaux for the existing twenty-five (25) public toilets and one-hundred and fourteen (114) kiosks? What is the unamortized value that a new contractor may have to pay to transfer the ownership?	Public Works has no knowledge of JCDecaux's investment expense.
10	Does DPW know the assessed value and/or real estate possessory interest taxes for the public toilets and kiosks paid by JC DeCaux for 2014?	No.
11	Due to Proposition E (2009) there can be no increase in the number of advertising signs allowed on street furniture. Does DPW have any flexibility to allow more advertising to support the Proposer's ability to finance the significant capital investment required by this RFP?	No. However, Proposers can propose a new design using the existing space for consideration.
12	Per the Section 603 of the City's Sign Code, the general advertising signs shall not exceed 52 sq. ft., but does not specify the format dimensions. Would the Proposer be required to adhere to a vertical format as stated in the current contract (not to exceed 12' high by 5' wide) or could we propose of a horizontal or square format?	Proposers can propose a horizontal or square format not to exceed 52 sq ft.
13	The current contract and Sign Code states the public service kiosks are divided into three sections, two ad panels and one public service use. To the best of our knowledge, many (or possibly all) of the kiosks designed for a newsstand or other public service use are no longer in operation for the uses that were intended. If there is no required, requested or necessary public service use, would it be possible to utilize the third section for advertising purposes?	Please propose your new design for consideration.
14	If new contractor negotiates an agreement for a commercial use like an ATM for the kiosk's public service section would the contractor be allowed to retain all the revenue?	A percentage of the annual revenue will have to be shared with the City. Please propose your revenue share.
15	On page 10, the Special Note under B. Selection Process it states the City may opt to select more than one bidder. This does not seem consistent with other terms and intent of the RFP. Please explain a possible scenario where one of more companies could be selected?	Only 1 bidder will be selected.
16	Could the City select one company to provide the public toilets and another company to provide the kiosks?	No, selected company will have to provide both public toilets & kiosks.
17	Are all of the 25 currently installed public and the 25 additional toilets, contemplated to be installed and/or located at permanent fixed locations?	Yes.



18	During the term of the new contract, the City may request the removal or relocation of up to five (5) public toilets or kiosks per year. Is this the total combined number or could it be as many as five (5) public toilets and five (5) kiosks per year?	5 is the total combined number per year. 2 toilets & 3 kiosks.
19	What is the encroachment permit fee for a public toilet and a public service kiosk? The current contract set these permit fees to be \$350.00 per toilet and kiosk. Should we assume the fees will be the same per the terms of the new contract?	Roughly the same \$350 each.
20	Would the city consider separating the RFP into two separate proposals; one for public service kiosks and one for public toilets? If not, must a bidder bid on both assets in order to be compliant with the RFP?	No, these will not be separate. Proposers must proposer for both Public Toilets and Kiosks to comply.
21	Due to the timeline of the RFP and location specific designs, can we propose a collaboration between a public toilet manufacturer and a named architect to produce a custom design specific to San Francisco, post award?	You may propose a collaboration by the submittal deadline of the RFP to include one or more designs. Designs will be evaluated & scored.
22	Section III.G.1 a. How many ad panels are on existing PTs and PSKs? Is the successful bidder limited to this number of ads? b. Does Planning Code 611 have any restrictions on: i. The size of ads ii. The existence of digital ads	a. Successful bidder is restricted to the existing space for ads. There are generally 2 panels per PSK at 52 sq. ft. b.i. Please refer to the response for question 12, above. <a href="https://law.resource.org/pub/us/code/city/ca/SanFrancisco/Planning%20Code/article06.pdf">https://law.resource.org/pub/us/code/city/ca/SanFrancisco/Planning%20Code/article06.pdf</a> b.ii. Please refer to the response for question 5, above.
23	Section III.A.1. a. PTs i. How many ad panels are on each PT? Is the successful bidder limited to this number? ii. Are the PTs currently electrified? iii. For the 25 new PTs, would they be at locations with existing sewer lines?	a. PTs: i. Yes, bidder is limited to existing number. ii. Yes iii. The sewer line exists in the right-of-way. A lateral sewer connection will have to be built to connect to the main sewer. Please provide an allowance for building the sewer lateral in your proposal.

24	<p>Section III.A.1. B. PSKs</p> <p>i. Is there a limit to the number of PSKs we can install? Would the successful bidder be capped at replacing the existing 114 PSK locations?</p> <p>ii. How many ad panels are on each PSK? Is the successful bidder limited to this number?</p> <p>iii. Are the PSKs currently electrified?</p> <p>iv. Is there an ability to add more kiosks in the future?</p>	<p>b. PSKs:</p> <p>i. Yes, there is voter mandated advertising limit (proposition E passed by voters as of January 1, 2008) which limits advertising to the existing kiosks. <i>SEC. 420-1. GENERAL ADVERTISING - PROHIBITION ON THE EXTERIOR OF CITY BUILDINGS AND ON STREET FURNITURE.</i> <i>(b) No increase in the number of general advertising signs shall be allowed on street furniture, including transit shelters, kiosks, benches and newspaper racks, over the number authorized by City law and negotiated under the provisions of City contracts that were in effect as of January 1, 2008. These limitations shall apply to any successor contracts.</i> <i>(c) The term "general advertising sign" shall have the meaning set forth in Section 602.7 of the Planning Code.</i> <i>(Added by Proposition E, App. 11/5/2009)</i></p> <p>ii. Two general advertising signs each not to exceed 52 sq ft in area on a public service kiosk. Each such public service kiosk shall be divided into three sections, one of which shall provide a public service, such as a newsstand, newsrack, map, public telephone, vending machine, display of public service information, or interactive video terminal; Yes, Proposers are limited to this number.</p> <p>iii. Yes.</p> <p>iv. No.</p>
25	<p>Section III.C.2</p> <p>a. Would the City consider a pro-rata reduction in MAG in relation to removed inventory?</p> <p>B. Would the City consider waiving the removal/replacement burden for PTs and PSKs? The successful bidder would make significant expenditures in the fabrication, trenching, electrification, installation, etc. of the units and placing the financial burden of removal and replacement is onerous. If the City is not willing to waive this requirement, can the parties agree on a cap?</p>	<p>a. Yes</p> <p>b. During the term of the new contract, the City may request the removal or relocation of up to five (5) public toilets or kiosks per year. 5 is the total combined number per year cap. At the end of the contract term, if the selected Contractor does not win the next bid, Contractor will have to obtain permits to remove their toilets and kiosks and restore the respective sidewalks and curbs at their own expense.</p>
26	<p>Section III.F.1</p> <p>Can the City clarify the duties expected of the PT staff? Would this person essentially serve as security for the PTs? Has the City considered the potential liability issues involved in this requirement? Will the City consider removing this requirement from the RFP?</p> <p>As discussed during the pre-proposal conference, the requirement to provide attendants to a minimum of 50% of the total number of toilets, 12 hours per day is onerous &amp; confusing. Are these employees expected to act as security guards, police officers, innocent by-standers?</p>	<p>Duties for the PT staff person would include, but not be limited to, the items listed in the RFP per Section III.D., III.F, &amp; IV.B. The City has considered the potential liability. The following existing PTs are currently being staffed successfully: Market/Castro, UN Plaza, Civic Center Plaza, 16th &amp; Mission. This requirement will not be removed.</p> <p>It is up to the Proposer to determine the duties. Some suggested job duties include, but are not limited to:</p> <p>Periodically clean the toilets, replenish supplies such as soap, toilet paper, seat covers, and perform maintenance, report malfunctions. When customers come along with a pet or shopping cart, staffer will assist &amp; keep an eye on it while they use the toilet, distribute doggie bags, assist with sharps containers, etc. Ability to stand for long periods of time, work outdoors, &amp; in inclement weather conditions.</p>
27	<p>Would the City provide us with advertising standards?</p>	<p>Proposer can propose any advertising as long as it complies with all existing laws, regulations, and codes.</p>

28	We believe that the speed and the performance of the wi-fi can be transformational to the City, its residents, visitors, and surrounding telecommunications industry. Can you clarify the city specifications referred to on page 4 (section E1)? In addition to the named wi-fi specifications (a,b,g,n,ac) that are required to be supported, are there other aspects of the wi-fi service (availability, user access, etc) that are required/desired? Would the City consider allowing the proposer to manage the wi-fi network if we can propose how to make it exceed the current requirements?	The City's preference is to manage the WiFi network; however, we would be willing to consider alternative proposals. If a proposer chooses to propose a managed system, it should have the following features: <ul style="list-style-type: none"> <li>• Seamless Experience – Access to system is simple and users are able to roam within the network</li> <li>• Broadband Speeds – 25Mbps download speed/ 4Mbps upload speed</li> <li>• No Authentication– No banner page</li> <li>• Data Collection Policy– No identifiable user info is collected</li> </ul>
29	Is the city providing wireline connectivity to the structure (PT or Kiosk)? If so, what type (fiber, ethernet, etc)?	No, the City will not be providing connectivity to the structure.
30	Will the wi-fi be compatible with other nearby city-managed public wi-fi, offering roaming and shared authentication?	Yes, we expect the WiFi to be compatible with nearby city-managed public Wi-Fi, it should (a) provide a seamless experience – access to system is simple and users are able to roam within the network; (b) there should be no authentication and no banner page and (c) it should adhere to the City's data collection policy. Currently, no identifiable user info is collected on the City's public Wi-Fi network.
31	Will the city allow for any capex recoupment from first revenues generated by the project for capex provided by proposer?	No.
32	Would the city allow for decreasing the \$10 million performance bond to a certain percentage of total capital expenditures in the first year of contract?	Yes, please refer to response to #6, above
33	If multiple bidders can be selected for this contract, how does this impact MAG Payments, Revenue Share, Operations Expenses, and coordination of advertising? Is that left up entirely to the multiple awarded bidders?	Only 1 bidder will be selected.
34	Section III.H.1 - Please confirm if the City expects payments to be MAG plus a percentage of revenue or if payments will be determined based on the greater of MAG or percentage of revenue.	MAG plus a percentage of revenue
35	Section VI.A.1 - Would the City consider reducing the letter of credit requirement from \$2M to 25%-33% of the MAG to be in line with the current market for security for United States Municipal Authorities?	This is subject to negotiation during the selection process.
36	On the 1st page, the City makes clear its intention to limit the initial & only assured term to 10 years. Given the breadth of the scope of this contract & the significant capital investment that will most certainly be required, will the City agree to expand the initial term to a minimum period of 20 years?	No.
37	It is clear from the evaluation criteria chart included in the RFP that any proposer offering the highest revenue proposal would win the award. Such an approach discounts completely the value of all other aspects of the procurement including the credit worthiness of the proponent, the quality of the designs submitted or the level of experience any proponent might have in out-of-home media and street furniture. Will the City consider the evaluation criteria to more heavily weigh such important although non-financial consideration?	No.

38	As it is written, it is our opinion that very few companies are prepared to provide the City with compliant proposals & we would strongly urge the City to consider taking a closer look at the requirements & expectations with an eye towards ensuring that the procurement process be as open to as many potential proponents as possible.	Your comment is duly noted.
39	Nowhere does it indicate that your request can be fully self-cleaning automated restrooms.	The RFP does not discourage automatic self-cleaning public toilets(APTs). Please note that we require that 50% of the public toilets (APTs and/or manually cleaned toilets) be staffed/monitored in problem areas to prevent illicit, criminal, nefarious activities occurring in the toilets. You are welcomed to propose any combination of both self cleaning for the non-staffed areas, & manual cleaning for the staffed areas. The staffing requirements can be found on under Section III.F. of the RFP. There are non-problem areas where the APTs have survived & thrived. We want to receive as many proposals as possible, and will consider multiple designs.

**Table 3.1 - Revenue**

Base Year	Revenue payment to Public Works from JCDecaux	Payment Date
2011	\$568,253	1/14/2011
2012	\$603,735	1/28/2012
2013	\$653,476	2/5/2013
2014	\$751,301	1/23/2014
2015	\$604,620	1/20/2015
<b>Total</b>	<b>\$3,181,385</b>	

City may elect to negotiate additional options including relocating or moving PTs & PSKs to other locations for various reasons beyond the five (5) per year, or adding other design features or services as suggested by the City or the Proposer.

- 3. The Proposer must create and maintain an Internet-based Inventory, Maintenance and Complaint Database System and must log in this system all required data on PT and PSK inventory, maintenance activities, and condition complaints and reports. This database must also provide current permit information, a list of locations and map of all street furniture installed by Proposer and be accessible to the City electronically.

**G. Advertising**

- 1. The Proposer may use PSKs and PTs for general advertising as negotiated in the contract. There shall not be any increase the amount of advertising on PSKs and PTs from existing amounts consistent with the Planning Code sec. 611, and voter-passed propositions G (2002) and E (2009). All general advertising signs shall be compliant with all applicable codes and requirements.

g:  
,16  
of existing equipment  
ic into the contract.

December 16, 2015

San Francisco Public Works  
Contract Administration  
1155 Market Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103  
Attention: Stacey Camillo

RE: City and County of San Francisco  
Request for Proposal (RFP)  
Public Toilet and Kiosk Agreement

#### Introduction and Executive Summary

Clear Channel Outdoor, Inc. (CCO) is pleased to submit our proposal with our unique and creative approach to the City and County of San Francisco (City), Department of Public Works (DPW) for the next contract to provide public toilets and kiosks for the City's benefit.

The Automatic Public Toilet and Public Service Kiosk program that was contracted with JC DeCaux more than 20 years ago has been a highly successful advertising program, but not a hugely successful public toilet program. The current public toilets have not been utilized properly for their intended purpose. It has been well documented that many of the public toilet locations have been fraught with illegal activities, breakdowns, lengthy out-of-service times and vandalism.

What has been successful is DPW's recently implemented "Pit Stop" pilot program. It is apparent for a variety of reasons that on site toilet monitor staffing at selected public toilets is absolutely necessary in an ever changing and challenging diverse urban environment like we have in San Francisco.

With this in mind, our proposal is intended to provide the necessary funding to DPW as follows:

- One-time upfront payment of **\$500,000** to purchase the existing public toilets and kiosks.
- Annual payments beginning at **\$2,500,000** (increased 3% per year) to fully-staff the toilet monitors.
- Additional annual payments of **\$750,000** for DPW to purchase, install and maintain new public toilets at either fixed locations or portable mobile toilets, at the City's discretion.
- Upon the full replacement of the 114 advertising kiosks at CCO's capital cost, Minimum Annual Guarantee (MAG) payments of **\$750,000 or 10% share of the advertising revenue**, whichever is greater.

Over the ten-year term of the new agreement, DPW will receive a total of **\$40,500,000** in guaranteed payments. In addition, depending upon the level of success of the advertising program there would potentially be a significant additional portion paid in the share of advertising revenue.

CCO believes our proposal will accomplish both an “In-Kind and Financial Benefit” as contemplated under the terms of the RFP. This proposal provides the most creative and flexible approach to maximize the strengths of a public-private partnership. With the necessary funding provided, the City’s will be able to successfully administer, manage and implement the continuation of public toilet program as DPW deems appropriate. New jobs will be created, the expectations of both residents and tourists will be met, neighborhoods will be cleaner and safer, as well as providing the city with additional resources to address the homeless issue. By implementing our vision, it will remove people from the streets, move them into housing and create new jobs. As a good corporate citizen, CCO has preliminarily reached out and identified a few local community based organizations such as the Hunters Point Family, RDJ Enterprises and the Tenderloin Housing Clinic. We believe these organizations are best suited to work directly with DPW as Workforce Development contractors to provide the required toilet monitoring and maintenance services. We will assist DPW with the facilitation of bringing these organizations on board.

CCO is proud of the successful relationship we have with the City, DPW and the San Francisco Municipal Transportation Agency. We will be looking forward to working with all the City departments to ensure the public toilet program will be successful in the future.

This letter and proposal are not binding and are instead to serve as the basis for negotiating written agreement. Neither this letter nor the proposal creates an obligation to enter or to continue negotiations. CCO, the City and DPW will not be bound to an agreement unless and until each party executes a final and definitive written contract.

Sincerely,

Robert Schmitt  
President / General Manager



**Redacted**

**EXECUTIVE SUMMARY**

**(RE-ADVERTISED)**  
SAN FRANCISCO RFP  
PUBLIC TOILET & KIOSK AGREEMENT  
**Proposal Due: June 3, 2016**

**Overview**

The Northern California Regional Branch is recommending that we not submit a proposal. In general, to submit a conforming proposal under current assumptions, the Capital Expense Cost would be [REDACTED], which would yield a poor IRR of [REDACTED], which does not make this an attractive opportunity. CCO can generate superior returns with less investments on more conventional projects currently being pursued.

The reissued RFP is seeking to replace 25 existing automatic public toilets and provide an additional 15 new automatic public at to be determined sites. At the pre-bid meeting, DPW specifically stated there would be no right to purchase the existing JCDecaux toilets in place, a key component proposed in our original proposal.

It again stipulates that personnel will monitor activity at 25 public toilet locations 12-hours a day, 7-days a week. This is estimated to be [REDACTED] in an additional annual expense. Also, the RFP adopted our concept that companies whose primary business is advertising are strongly encouraged to use a Community-Based Organization

In addition, the RFP requests an increase in the Financial Benefit in terms of Minimum Annual Guarantee (MAG) and a percentage of the advertising revenue.

Added to this RFP is a requirement for a CEQA review of the 15 new public toilets, which is an another expense estimated to be [REDACTED].

JCDecaux enjoys an advantageous position as the incumbent as one of the City priorities is maintaining the toilet services throughout the transition. It was rumored that Intersection offered a significant amount of money with the stipulation that the number of advertising kiosks be increased in order for them to duplicate their LinkNYC to San Francisco.

For your additional review and consideration, all other relevant terms are on the following page.

**Redacted**

**Current Contract Terms (JC DeCaux)**

- 20-year contract expires January 2017
- 25 Automatic self-cleaning public toilet
- 114 three-sided Kiosks – 2 ad panels / 228 total static faces
- Five-Year Annual Ad Revenue, 7% Revenue Share and Administration Fee (Alcohol advertising is allowed. Estimate 15% of revenue)

<u>Year</u>	<u>Ad Revenue</u>	<u>Revenue Share</u>	<u>Admin Fee</u>
2014	\$8,063,114	\$564,418	\$40,202
2013	\$10,168,052	\$711,767	\$39,538
2012	\$8,785,783	\$615,045	\$38,431
2011	\$8,624,779	\$603,735	\$37,368
2010	\$7,597,937	\$531,856	\$36,397

**Key Terms of the RFP**

- 10-year contract, City's has two 5-year options to extend
- Replace existing 25 automatic public toilets
- Provide an additional 15 automatic public toilet
- Replace all of the 114 existing Kiosks  
(No additional advertising on City property allowed per Proposition E 2009)
- Digital ad displays would be allowed
- Alcohol advertising would be prohibited per City ordinance passed 2009
- 50% of the public toilets shall be staffed by 1-person for 12-hours per day
- Evaluation Criteria:
  - Revenue – 20 pts.
  - Project Approach – 20 pts.
  - Assigned Project Staff – 10 pts.
  - Experience of Firm – 10 pts.
  - Oral Interview – 40 pts.Total – 100 pts.



File No. 200222-1

March 2, 2020

**VIA MESSENGER**

Clerk of the Board  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2020 MAR -2 PM 4:40  
BY [Signature]

Re: File No. 200222; Resolution Urging Invalidation of the 2019 Revenue Agreement — JCDecaux

Dear Board of Supervisors:

This office represents JCDecaux San Francisco, LLC (“JCDecaux San Francisco”) and its parent company JCDecaux North America, Inc. (together, “JCDecaux”). Just seven months ago, the Board approved, by a 10-0 vote, Resolution No. 341-19, a copy of which is attached, approving the City’s entry into a Public Toilet and Public Service Kiosk Agreement with JCDecaux San Francisco. As recited in that resolution, the Board’s approval of the Agreement followed a competitive solicitation and an extensive public review process, and JCDecaux is confident that it followed the rules and complied with all City laws throughout this process. The Agreement was executed on behalf of the City by the Deputy Director of the Department of Public Works on October 8, 2019 and is now in effect.

Item 38 on the Board’s March 3, 2020 agenda is a resolution urging the Department of Public Works and the Office of the City Attorney “to cease any further implementation of the [Agreement], including by invalidating” the rights granted to JCDecaux San Francisco. There is simply no basis for approval of the proposed resolution or for the invalidation of the Agreement.

The proposed resolution asserts, apparently in reliance upon an unsupported claim in the *Mission Local* newspaper, that former Director of Public Works Mohammed Nuru was “wined and dined” at JCDecaux’s head office in Plaisir, France. This assertion is untrue. Mr. Nuru has never visited any JCDecaux facility in France. Mr. Nuru was neither wined nor dined by JCDecaux in France or anywhere else.

The proposed resolution also refers to “additional concerns . . . regarding the relationship between Nuru and JCDecaux,” though it does not identify those concerns. We would appreciate the opportunity to have reasonable notice of the specifics of any concerns and an opportunity to address them prior to the Board’s voting on this or any similar resolution.

Upon learning of the City Attorney’s broad public corruption investigation, JCDecaux, through this office, contacted the Office of the City Attorney and offered to cooperate in any investigation

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The San Francisco Board of Supervisors  
March 2, 2020  
Page 2

the City Attorney undertakes with respect to the Public Toilet and Public Service Kiosk Agreement. We expect to meet with representatives of the City Attorney's office later this week.

That said, JCDecaux takes this opportunity to state unequivocally its belief that the Public Toilet and Public Service Kiosk Agreement reflects a wholly appropriate arms-length negotiation between JCDecaux and the City and County of San Francisco. JCDecaux followed a complex regulatory process involving multiple government agencies including the Office of the City Attorney, the Department of Public Works, and this Board; was responsive to the input of numerous stakeholders including the San Francisco Arts Commission and the Historical Preservation Commission; and supported a competition of City-selected architectural firms to design the facilities that it is now diligently engineering and manufacturing. We respectfully suggest that it would be premature for the Board to act on the proposed resolution during the pendency of the City Attorney's investigation, especially when it appears that the resolution may have been prompted by a misunderstanding of the facts.

JCDecaux is proud of its relationship with the City and County of San Francisco and looks forward to continuing to serve its residents for years to come.

Respectfully submitted,



Harry O'Brien  
For Coblentz Patch Duffy & Bass LLP

Attachment: Resolution 341-19

cc: All Supervisors  
Keslie Stewart, Deputy City Attorney  
Martha Bailey, General Counsel, JCDecaux North America

1 [Revenue Agreement - Retroactive - JC Decaux San Francisco, LLC. - Public Toilets and  
2 Public Service Kiosk Agreement - \$12,950,000]

3 **Resolution retroactively approving a Revenue Agreement between Public Works and**  
4 **JC Decaux San Francisco, LLC, for an automatic public toilet and public service kiosk**  
5 **program with anticipated revenues of over \$12,950,000 and a term of 21.5 years**  
6 **commencing on July 1, 2019; and affirming the Planning Department’s determination**  
7 **under the California Environmental Quality Act.**

8  
9 WHEREAS, San Francisco Public Works issued a competitive solicitation through its  
10 Request for Proposals dated April 26, 2016, for Public Toilets and Advertising Kiosks; and

11 WHEREAS, JC Decaux San Francisco, LLC (“JC Decaux”) was the only company that  
12 responded to this solicitation with a proposal dated June 24, 2016; and

13 WHEREAS, JC Decaux has been providing similar services for over 20 years under the  
14 First and Second Amended and Restated Automatic Public Toilet and Public Service Kiosk  
15 Agreement, effective as of August 2, 1994, and as further amended from time to time; and

16 WHEREAS, After receiving comments on the initially proposed design, Public Works  
17 and JC Decaux ran an invitation-only design competition of local San Francisco design and  
18 architecture firms and on May 28, 2018 selected a winning design; and

19 WHEREAS, This new design received approval from the Historic Preservation  
20 Commission on October 17, 2018 and the Arts Commission on December 3, 2018; and

21 WHEREAS, On October 5, 2018, the Planning Department issued an Addendum to the  
22 Final Negative Declaration for the Kiosk and Automatic Toilet Replacement Project, originally  
23 issued September 23, 1993, and concluded that the analyses conducted and the conclusions  
24 reached in the Final Negative Declaration adopted and issued on September 23, 1993 for the  
25 original project remain valid and that no supplemental environmental review is required, and a

1 copy of the Addendum to the Negative Declaration for the Kiosk and Automatic Toilet  
2 Replacement Project is on file with the Clerk of the Board of Supervisors in File No. 190579  
3 and is incorporated by reference; and

4 WHEREAS, In the new Agreement, JC Decaux will maintain and operate automatic  
5 public toilets free of charge for the public on public right of ways and public land, replace and  
6 upgrade all 25 existing and approved automatic public toilets with a new design, compensate  
7 the City in the form of guaranteed fee payments and potential payments tied to gross  
8 advertising revenue, display public service messages, and provide 48,180 hours of attendant  
9 services annually in exchange for the right to operate up to 114 advertising kiosks on public  
10 right of ways, replace and upgrade 114 existing advertising kiosks, and add digital screens to  
11 its current advertising program over the course of a 21.5 year term; and

12 WHEREAS, In implementing the static and digital public service messaging program  
13 and allocating the use of space within the vending kiosks, Public Works will develop and  
14 adopt a policy defining the fair and equitable use of these public spaces as well as continue  
15 the Arts Commission's role in programming the public service messages for the kiosks on  
16 Market Street; and

17 WHEREAS, Upon completion of the policy, Public Works will bring it before the Board  
18 of Supervisors for approval by Resolution; and

19 WHEREAS, The anticipated value of attendant services is an estimated \$57,760,000  
20 over the term of the Agreement; and

21 WHEREAS, Anticipated revenues from this Agreement are an estimated \$12,950,000  
22 and Charter Section 9.118(a) requires that all contracts that when entered into by a  
23 department, having anticipated revenue to the City and County of \$1,000,000 or more shall be  
24 subject to approval of the Board of Supervisors by resolution; and

1           WHEREAS, The term of this Agreement will be 21.5 years, commencing on July 1,  
2 2019, and Charter Section 9.118(b) requires that all agreements entered into by a department  
3 having a term in excess of ten years shall be subject to approval of the Board of Supervisors  
4 by resolution; now, therefore, be it

5           RESOLVED, That the Board of Supervisors approves the proposed Public Toilet and  
6 Public Service Kiosk Agreement; and, be it

7           FURTHER RESOLVED, That the Board of Supervisors has reviewed and considered  
8 the Final Negative Declaration and Addendum, and affirms the Planning Department's  
9 determination that the analyses conducted and the conclusions reached in the Final Negative  
10 Declaration for the original project remain valid and that no supplemental environmental  
11 review is required; and, be it

12           FURTHER RESOLVED, That within 30 days of the Agreement being fully executed by  
13 all parties, Public Works shall provide the final amendment to the Clerk of the Board for  
14 inclusion into the official file.



**City and County of San Francisco**  
**Tails**  
**Resolution**

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**File Number:** 190579

**Date Passed:** July 23, 2019

Resolution retroactively approving a Revenue Agreement between Public Works and JC Decaux San Francisco, LLC, for an automatic public toilet and public service kiosk program with anticipated revenues of over \$12,950,000 and a term of 21.5 years commencing on July 1, 2019; and affirming the Planning Department's determination under the California Environmental Quality Act.

July 10, 2019 Budget and Finance Sub-Committee - CONTINUED

July 17, 2019 Budget and Finance Sub-Committee - RECOMMENDED

July 23, 2019 Board of Supervisors - ADOPTED

Ayes: 10 - Brown, Fewer, Mandeliman, Mar, Peskin, Ronen, Safai, Stefani, Walton and Yee

Absent: 1 - Haney

File No. 190579

I hereby certify that the foregoing  
Resolution was ADOPTED on 7/23/2019 by  
the Board of Supervisors of the City and  
County of San Francisco.

Angela Calvillo  
Clerk of the Board

London N. Breed  
Mayor

Date Approved



Print Form

RECEIVED  
2/25/2020 @ 5:28pm  
A

# Introduction Form

By a Member of the Board of Supervisors or Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [ ] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. Topic submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.**

Sponsor(s):

Peskin, HANEY, MAW

Subject:

[Resolution Urging Invalidation of the 2019 Revenue Agreement with JC Decaux]

The text is listed:

Resolution urging the Department of Public Works and Office of the City Attorney to take immediate steps to cancel the City and County of San Francisco's contract with JC Decaux, including by ceasing implementation of its lucrative Grant of Advertising Rights.

Signature of Sponsoring Supervisor:

For Clerk's Use Only