

File No. 190058

Committee Item No. 1

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

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Sub-Committee

Date March 13, 2019

Board of Supervisors Meeting

Date \_\_\_\_\_

#### Cmte Board

- |                                     |                          |  |
|-------------------------------------|--------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/> | Motion                                       |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Resolution                                   |
| <input type="checkbox"/>            | <input type="checkbox"/> | Ordinance                                    |
| <input type="checkbox"/>            | <input type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Youth Commission Report                      |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Introduction Form                            |
| <input type="checkbox"/>            | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/> | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Subcontract Budget                           |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Public Correspondence                        |

OTHER (Use back side if additional space is needed)

<input type="checkbox"/>	<input type="checkbox"/>	_____
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Completed by: Linda Wong Date March 8, 2019

Completed by: Linda Wong Date \_\_\_\_\_

1 [Revenue Agreement Amendment - JC Decaux San Francisco, LLC - Extending Term to April  
2 25, 2019]

3 **Resolution retroactively approving the Sixth Amendment to the Revenue Agreement**  
4 **between Public Works and JC Decaux San Francisco, LLC, for the Automatic Public**  
5 **Toilet and Public Service Kiosk Program extending the contract term by 90 days,**  
6 **changing the termination date from January 25, 2019, to April 25, 2019.**

7  
8 WHEREAS, Public Works entered into an agreement with JC Decaux San Francisco,  
9 LLC for a public toilet and public service kiosk pilot program, with an effective date of August  
10 2, 1994; and

11 WHEREAS, The Board of Supervisors approved a First Amended and Restated  
12 Automatic Public Toilet and Public Service Kiosk Agreement ("JC Decaux Agreement") on  
13 December 7, 1998, which expanded the program beyond the trial phase with a term ending on  
14 October 17, 2016; and

15 WHEREAS, On December 14, 2015, the parties executed a first amendment to the JC  
16 Decaux Agreement to allow installation of temporary personal wireless services in the kiosks;  
17 and

18 WHEREAS, On October 28, 2016, the Board of Supervisors approved a second  
19 amendment to the JC Decaux Agreement to extend the term of the agreement to October 17,  
20 2017; and

21 WHEREAS, On November 14, 2017, the Board of Supervisors approved a third  
22 amendment to the JC Decaux Agreement to extend the term of the agreement to February 14,  
23 2018; and

24 WHEREAS, On April 17, 2018, the Board of Supervisors approved a fourth amendment  
25 to the JC Decaux Agreement to extend the term of the agreement to October 12, 2018; and

1           WHEREAS, On November 13, 2018, the Board of Supervisors approved a fifth  
2 amendment to the JC Decaux Agreement to extend the term of the agreement to January 25,  
3 2019; and

4           WHEREAS, The JC Decaux Agreement, the First Amendment to the Agreement,  
5 Second Amendment to the Agreement, the Third Amendment to the Agreement, the Fourth  
6 Amendment to the Agreement, and the Fifth Amendment to the Agreement are on file with the  
7 Clerk of the Board of Supervisors in Files No. 981599, 161019, 170994, 180135, and 180964  
8 respectively and which are hereby declared to be a part of this Resolution as if set forth fully  
9 herein; and

10           WHEREAS, Public Works needs additional time to complete contract negotiations  
11 based on the newly approved design that has met all City design and review requirements for  
12 proposed new public toilets and public service kiosks as of the December 2018; and

13           WHEREAS, Public Works cannot complete the negotiations for the new Toilets and  
14 Kiosks before the current agreement expires; and

15           WHEREAS, Charter, Section 9.118(a) requires that amendments to contracts that  
16 when entered into had anticipated revenues of \$1,000,000 or more be approved by the Board  
17 of Supervisors; now, therefore, be it

18           RESOLVED, That the San Francisco Board of Supervisors approves the Sixth  
19 Amendment to the JC Decaux Agreement, which extends the term of the JC Decaux  
20 Agreement by 90 days to April 25, 2019; and, be it

21           FURTHER RESOLVED, That within thirty (30) days of the amendment being fully  
22 executed by all parties, Public Works shall provide the final amendment to the Clerk of the  
23 Board for inclusion into the official file.

**City and County of San Francisco  
San Francisco Public Works  
1155 Market Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103**

**Sixth Amendment to Agreement**

THIS SIXTH AMENDMENT (this “Amendment”) is made as of January 11, 2019, in San Francisco, California, by and between **JC Decaux San Francisco, LLC** (“Contractor”), and the City and County of San Francisco, a municipal corporation (“City”), acting by and through its Director of Public Works.

RECITALS

WHEREAS, City and Contractor have entered into the Agreement as amended (as defined below); and

WHEREAS, City and Contractor desire to modify the Agreement on the terms and conditions set forth herein to extend the contract duration by 90 days;

NOW, THEREFORE, Contractor and the City agree as follows:

**1. Definitions.** The following definitions shall apply to this Amendment:

**1a. Agreement.** The term “Agreement” shall mean the Agreement dated August 2, 1994, between Contractor and City, as amended by the:

**First Amended and Restated Agreement**, approved by the Board of Supervisors on December 7, 1998; and

**First Amendment to the Agreement**, dated December 14, 2015; and

**Second Amendment to the Agreement**, dated October 28, 2016; and

**Third Amendment to the Agreement**, dated September 12, 2017; and

**Fourth Amendment to the Agreement**, dated February 5, 2018; and

**Fifth Amendment to the Agreement**, dated September 5, 2018

**1b. Other Terms.** Terms used and not defined in this Amendment shall have the meanings assigned to such terms in the Agreement.

**2. Modifications to the Agreement.** The Agreement is hereby modified as follows:

**2a. Section 1.03.** *Section 1.03. Term of Agreement* of the Agreement currently reads as follows:

This Agreement shall commence as of the Original Effective Date and shall continue, subject to the terms of this Agreement regarding termination, to 11:59 p.m. on January 25, 2019.

**Such section is hereby amended in its entirety to read as follows:**

This Agreement shall commence as of the Original Effective Date and shall continue, subject to the terms of this Agreement regarding termination, to 11:59 p.m. on April 25, 2019.

IN WITNESS WHEREOF, Contractor and City have executed this Amendment as of the date first referenced above.

**CITY**

**CONTRACTOR**

**SAN FRANCISCO PUBLIC WORKS**

**JC DECAUX SAN FRANCISCO, LLC**

\_\_\_\_\_  
**MOHAMMED NURU**  
**DIRECTOR**

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

Print Name: J. Francois Nion

Title: Executive Vice President

Federal Tax ID #: 94-3211833

City Vendor Number: 47073

Approved as to Form:

Dennis J. Herrera  
City Attorney

By: \_\_\_\_\_  
Gus Guibert  
Deputy City Attorney

Print Form

# Introduction Form

By a Member of the Board of Supervisors or Mayor

2019 JAN 15 PM 4:25  
 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):

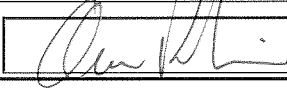
Supervisor Aaron Peskin

Subject:

Revenue Agreement Amendment - JC Decaux San Francisco, LLC - Extending Term to April 25, 2019

The text is listed:

Resolution retroactively approving the Sixth Amendment to the Revenue Agreement between San Francisco Public Works and JC Decaux San Francisco, LLC, for the Automatic Public Toilet and Public Service Kiosk Program extending the contract term by 90 days, changing the termination date from January 25, 2019, to April 25, 2019.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only