

Council Meeting of  
January 23, 2007

Honorable Mayor and Members  
of the City Council  
City Hall  
Torrance, California

**Members of the Council:**

**SUBJECT: Finance - Taxicab Franchise Agreement Extension**

**RECOMMENDATION**

The Finance Director recommends that your Honorable Body approve the first year option to extend the taxi franchise agreement with the following taxi cab companies:

- All Yellow Taxicab
- Bell Cab
- South Bay Yellow
- United Checker

Funding

General Fund Revenues.

**BACKGROUND**

On January 27, 2004, your Honorable Body authorized staff to enter into a franchise agreement for a term of three years with two additional one-year renewal options with All Yellow Taxicab, Bell Cab, South Bay Yellow and United Checker companies. The original franchise agreement of three years expires on January 26, 2007. The agreement has two one-year options, and staff is recommending that the first year option be approved by your Honorable Body.

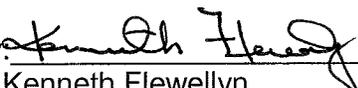
On October 28, 2003, your Honorable Body authorized staff to solicit request for proposals (RFP) from interested taxicab companies to operate a taxicab franchise in the City of Torrance. Additionally, your Honorable Body approved a maximum of four taxicab franchises to operate in the City of Torrance at a price of \$30,000 annually per franchise with an additional \$100 per taxicab. A minimum limit of 40 taxicabs per franchise with a maximum of 120 taxicabs was also approved at the meeting.

As of fiscal year 2006-07, all companies are in compliance with all aspects of the franchise agreement. Staff is not aware of any outstanding complaints or issues from the public. In addition, each of the four companies has a separate agreement to provide service to our

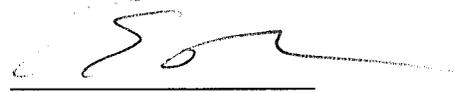
seniors under the Senior Ride Program, which are outside of the conditions of this franchise agreement.

Respectfully submitted,

Eric Tsao  
Finance Director

By:   
Kenneth Flewellyn  
Assistant Finance Director

CONCUR:

  
Eric Tsao  
Finance Director

  
LeRoy J. Jackson  
City Manager

Attachments:

- A: All Yellow Taxicab – Amendment & Franchise agreement
- B: Bell Cab – Amendment & Franchise agreement
- C: South Bay Yellow – Amendment & Franchise agreement
- D: United Checker – Amendment & Franchise agreement

## FIRST AMENDMENT TO AGREEMENT

This First Amendment to Agreement (F2004-035) is made and entered into as of January 23, 2007 (the "Effective Date"), by and between the CITY OF TORRANCE ("CITY"), a municipal Corporation, and All Yellow Taxi Inc., a California corporation ("FRANCHISEE").

### RECITALS:

- A. CITY and FRANCHISEE entered into an Agreement on January 27, 2004, whereby CITY granted a non-exclusive franchise to FRANCHISEE for the provision of taxi services within CITY's boundaries.
- B. CITY wishes to exercise its option for an additional one-year term.

### AGREEMENT:

1. Paragraph 2, entitled Term of Agreement, is amended to read in its entirety as follows:
 

"2. **Term of Agreement.** This Agreement shall terminate one year from the Effective Date of this agreement unless earlier terminated as provided in Paragraph 2.1. Additionally, the City Council has the option to extend the Agreement for no more than one one-year term."
2. In all other respects, the Agreement dated January 27, 2004 between CITY and FRANCHISEE is ratified and reaffirmed and is in full force and effect.

CITY OF TORRANCE,  
A Municipal Corporation

All Yellow Taxi Inc.,  
a California corporation

By \_\_\_\_\_  
Frank Scotto, Mayor

By \_\_\_\_\_  
Oswaldo Guidos  
President

ATTEST:

\_\_\_\_\_  
Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III  
City Attorney

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

## TAXICAB FRANCHISE AGREEMENT

THIS AGREEMENT is made this 27 day of January, 2004, by the CITY OF TORRANCE, a municipal corporation, ("CITY"), and All Yellow Taxi Inc., (hereinafter referred to as "FRANCHISEE").

### RECITALS

The following recitals are a substantive part of this Agreement:

1. City is desirous of regulating taxicab services for the benefit of the residents and visitors of Torrance and has determined that the most effective way to do so is by the granting of non-exclusive franchises which regulate the time, place and manner of provision of taxi services by private companies;

2. FRANCHISEE is qualified by virtue of experience, training, education, and expertise to be granted such a franchise.

### AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Grant of Franchise.** CITY hereby grants a non-exclusive franchise to FRANCHISEE for the provision of taxi services within the City's boundaries.

2. **Term of Agreement.** This Agreement shall terminate three years from the effective date of this Agreement unless earlier terminated as provided below. Additionally, the City Council has the option to extend the Agreement for no more than two one-year terms.

2.1 **Termination.** The City reserves the right to terminate the individual franchise agreements without cause by providing the Franchisee with 30 days written notice. Upon receipt of a termination notice, FRANCHISEE must: (1) promptly discontinue all services affected unless the notice directs otherwise; (2) promptly remove all vehicle decals authorizing operations within the CITY; and (3) return all driver identification cards issued by CITY. Any prepaid franchise fees will be refunded on a prorated basis for the remaining franchise period. If termination by the City is warranted due to default in franchise obligations by the Franchisee, termination will be determined pursuant to the provisions of the Torrance Municipal Code.

3. **Nature of Franchise.** The rights and responsibilities of FRANCHISEE shall include those outlined in the City's Request for Proposal (attachment "A"), the FRANCHISEE's proposal (Attachment "B"), the addendum (Attachment "C"), and the City's Taxicab Franchise Ordinance that is found in Article 16 of Chapter 3 of Division 3 of the Torrance Municipal Code, which are incorporated herein by this reference.

4. **Compensation.** FRANCHISEE shall compensate CITY as follows:

a) Annual Franchise Fee of \$30,000 plus \$100 per cab per year. FRANCHISEE has requested a total of 120 cabs. The total fee for FRANCHISEE is \$42,000 payable in advance of Franchise Period commencement and annually thereafter.

5. **Employees and Subcontractors.** FRANCHISEE may, at FRANCHISEE'S sole cost and expense, employ such other person as may, in the opinion of FRANCHISEE, be needed to comply with the terms of this Agreement, if such persons possess the necessary qualifications to perform such services.

6. **Insurance Requirements.** Proof that the FRANCHISEE maintains, at its sole expense, insurance meeting the following requirements, which shall be in full coverage not subject to self-insurance provisions:

A. Separate commercial automobile liability insurance, utilizing coverage from CA001, for each vehicle proposed to be operated within the City pursuant to the operator's permit, with at least the following limits of liability:

- a) Primary Bodily Injury with limits of at least two hundred fifty thousand dollars (\$250,000.00) per person and five hundred thousand dollars (\$500,000.00) per occurrence; and Primary Property Damage of at least one hundred thousand dollars (\$100,000.00) per occurrence; or
  - b) Combined single limits of five hundred thousand dollars (\$500,000.00) per occurrence.
- 1) General liability including coverage for premises, independent contractors/vendors, personal injury and contractual obligations with combined single limits of at least five hundred thousand dollars (\$500,000.00) per occurrence.
  - 2) Workers' Compensation with limits as required by the State of California and Employer's Liability with limits of at least five hundred thousand dollars (\$500,000.00).
  - 3) Insurance provided by the franchisee must be primary and non-contributory.
  - 4) Required insurance must be issued by companies admitted to do business in California, rated "B+" or better in the most recent edition of Best's Key Rating Guide, and only if they are of a financial category Class VII or better, unless these requirements are modified or waived in writing by the Risk Manager of the City due to unique circumstances.
  - 5) The City, the City Council, and each present and former member of the City Council, City boards and commissions, and every officer, agent, official, employee

and volunteer of the City (collectively, "City entities") must be named as additional insured under the automobile and general liability policy.

- 6) Each policy of required insurance must contain a provision that no termination cancellation or change of coverage can be made without thirty (30) days notice to the City.
- 7) The applicant must provide certificates of insurance and/or endorsements to the City Clerk of the City of Torrance prior to issuance of a permit.
- 8) The insurance carrier for the franchisee must provide a complete copy of the insurance policy, including all forms and endorsements to the Risk Manager of the City of Torrance within 60 days of commencement of work.

**7. Non-Liability of Officials and Employees of the CITY.** No officer or employee of CITY will be personally liable to FRANCHISEE, in the event of any default or breach by the CITY or for any amount that may become due to FRANCHISEE.

**8. Non-Discrimination.** FRANCHISEE covenants there shall be no discrimination based upon race, color, creed, religion, sex, marital status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.

**9. Independent Contractor.** The FRANCHISEE is, and at all times will remain as to CITY, a wholly independent contractor. Neither CITY nor any of its agents will have control over the conduct of the FRANCHISEE or any of the FRANCHISEE's employees, except as otherwise set forth in this Agreement. The FRANCHISEE may not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

**10. Compliance with Statutes and Regulations.** FRANCHISEE will be knowledgeable of and will comply with all applicable federal, state, county and city statutes, rules, regulations, ordinances and orders.

**11. Conflict of Interest.**

- A. No officer or employee of the CITY may have any financial interest, direct or indirect, in this Agreement, nor may any officer or employee participate in any decision relating to the Agreement that effects the officer or employee's financial interest or the financial interest of any corporation, partnership or association in which the officer or employee is, directly or indirectly interested, in violation of any law, rule or regulation.
- B. No person may offer, give, or agree to give any officer or employee or former officer or employee, nor may any officer or employee solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request,

influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any way pertaining to any program requirement, contract or subcontract, or to any solicitation or proposal.

## 12. Notices.

A. All notices, requests, demands, or other communications under this Agreement will be in writing. Notice will be sufficiently given for all purposes as follows:

1. Personal delivery. When personally delivered to the recipient: notice is effective on delivery.

2. First Class mail. When mailed first class to the last address of the recipient known to the party giving notice: notice is effective three mail delivery days after deposit in an United States Postal Service office or mailbox.

3. Certified mail. When mailed certified mail, return receipt requested: notice is effective on receipt, if delivery is confirmed by a return receipt.

4. Overnight delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account: notice is effective on delivery, if delivery is confirmed by the delivery service.

5. Facsimile transmission. When sent by fax to the last fax number of the recipient known to the party giving notice: notice is effective on receipt. Any notice given by fax will be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

6. Addresses for purpose of giving notice are as follows:

a. Address of FRANCHISEE is as follows:

All Yellow Taxi Inc.  
14550 S. Main Street  
Gardena, California 90248  
Fax: (310) 771-1458

b. Address of CITY is as follows:

City Clerk  
City of Torrance  
3031 Torrance Boulevard  
Torrance, CA 90509-2970  
Fax: (310) 618-2931

(with a copy to):

Risk Manager  
 City of Torrance  
 3231 Torrance Blvd.  
 Torrance, CA 90503  
 Fax: (310)618-2927

B. Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified, will be deemed effective as of the first date the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messenger or overnight delivery service.

C. Either party may change its address or fax number by giving the other party notice of the change in any manner permitted by this Agreement.

13. **FRANCHISEE'S Proposal.** This Agreement shall include CITY's RFP (Attachment A) and FRANCHISEE'S proposal (Attachment B) which are incorporated herein. In the event of any inconsistency between the terms of the RFP or proposal and this Agreement, this Agreement shall govern.

14. **Prohibition Against Assignment And Subcontracting.** This Agreement and all exhibits are binding on the heirs, successors, and assigns of the parties. The Agreement may not be assigned or subcontracted by either CITY or FRANCHISEE without the prior written consent of the other.

15. **FRANCHISEE's Authority To Execute.** The persons executing this Agreement on behalf of the FRANCHISEE warrant that (i) the FRANCHISEE is duly organized and existing; (ii) they are duly authorized to execute this Agreement on behalf of the FRANCHISEE; (iii) by so executing this Agreement, the FRANCHISEE is formally bound to the provisions of this Agreement; and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the FRANCHISEE is bound..

16. **Indemnification.** FRANCHISEE will indemnify, defend, and hold harmless CITY, the City Council, each member thereof, present and future, its officers, agents and employees from and against any and all liability, expenses, including defense costs and legal fees, and claims for damages whatsoever, including, but not limited to, those arising from breach of contract, bodily injury, death, personal injury, property damage, loss of use, or property loss however the same may be caused and regardless of the responsibility for negligence. The obligation to indemnify, defend and hold harmless includes, but is not limited to, any liability or expense, including defense costs and legal fees, arising from the negligent acts or omissions, or willful misconduct of FRANCHISEE, its officers, employees, agents, subcontractors or vendors. It is further agreed, FRANCHISEE's obligations to indemnify, defend and hold harmless will apply even in the event of concurrent negligence on the part of CITY, the City Council, each member thereof, present and future, or its officers, agents and employees, except for liability resulting solely from

the negligence or willful misconduct of CITY, its officers, employees or agents. Payment by CITY is not a condition precedent to enforcement of this indemnity. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by FRANCHISEE. In the event of any dispute between FRANCHISEE and CITY, as to whether liability arises from the sole negligence of the CITY or its officers, employees, agents, subcontractors or vendors, FRANCHISEE will be obligated to pay for CITY's defense until such time as a final judgment has been entered adjudicating the CITY as solely negligent. FRANCHISEE will not be entitled in the event of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

**17. Integration; Amendment.** This Agreement represents the entire understanding of CITY and FRANCHISEE as to those matters contained in it. No prior oral or written understanding will be of any force or effect with respect to the terms of this Agreement. The Agreement may not be modified or altered except in writing signed by both parties.

**18. Governing Law; Jurisdiction.** This Agreement will be administered and interpreted under the laws of the State of California. Jurisdiction of any litigation arising from the Agreement will be in Los Angeles County, California.

**19. Interpretation.** The terms of this Agreement should be construed in accordance with the meaning of the language used and should not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction that might otherwise apply.

**20. Severability.** If any part of this Agreement is found to be in conflict with applicable laws, that part will be inoperative, null and void insofar as it is in conflict with any applicable laws, but the remainder of the Agreement will remain in full force and effect.

**21. Attorney's Fees.** Except as provided for in Paragraph 16, in any dispute, litigation, arbitration, or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party will be awarded reasonable attorney's fees, together with any costs and expenses, to resolve the dispute and to enforce any judgment.

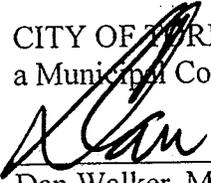
**22. Waiver Of Breach.** No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default will impair the right or remedy or be construed as a waiver. A party's consent or approval of any act by the other party requiring the party's consent or approval will not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and will not be a waiver of any other default concerning the same or any other provision of this Agreement.

**23. Decals.** A total of 120 decals shall be issued by CITY to the FRANCHISEE after FRANCHISEE successfully meets the contract advance requirements, including but not limited to, insurance, vehicle listing, driver identification cards, etc. If, during the franchise period, the FRANCHISEE needs replacement decals, the FRANCHISEE shall provide the old decal to

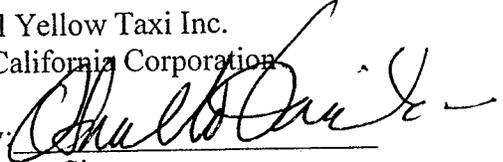
CITY as proof of non-duplication. A fee of \$10 will be paid to CITY for processing the replacement decal request and for providing the replacement decal.

IN WITNESS THEREOF, the parties hereto have executed this Agreement on the day and year first shown above.

CITY OF TARRANT  
a Municipal Corporation

  
\_\_\_\_\_  
Dan Walker, Mayor

All Yellow Taxi Inc.  
a California Corporation

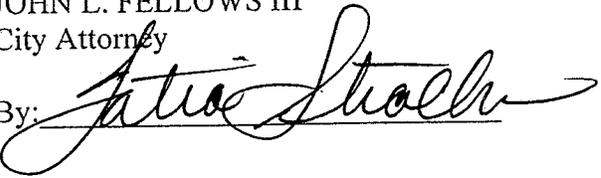
By:   
\_\_\_\_\_  
Signer  
OSWALDO GUIDOS  
PRESIDENT  
Title

ATTEST:

  
\_\_\_\_\_  
Sue Herbers  
City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III  
City Attorney

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

## FIRST AMENDMENT TO AGREEMENT

This First Amendment to Agreement (F2004-036) is made and entered into as of January 23, 2007 (the "Effective Date"), by and between the CITY OF TORRANCE ("CITY"), a municipal Corporation, and Bell Cab Co. Inc., a California corporation ("FRANCHISEE").

### RECITALS:

- A. CITY and FRANCHISEE entered into an Agreement on January 27, 2004, whereby CITY granted a non-exclusive franchise to FRANCHISEE for the provision of taxi services within CITY's boundaries.
- B. CITY wishes to exercise its option for an additional one-year term.

### AGREEMENT:

- 1. Paragraph 2, entitled Term of Agreement, is amended to read in its entirety as follows:

"2. **Term of Agreement.** This Agreement shall terminate one year from the Effective Date of this agreement unless earlier terminated as provided in Paragraph 2.1. Additionally, the City Council has the option to extend the Agreement for no more than one one-year term."

- 2. In all other respects, the Agreement dated January 27, 2004 between CITY and FRANCHISEE is ratified and reaffirmed and is in full force and effect.

CITY OF TORRANCE,  
A Municipal Corporation

Bell Cab Co. Inc.,  
a California corporation

By \_\_\_\_\_  
Frank Scotto, Mayor

By \_\_\_\_\_  
Michael Calin  
Vice President – General  
Manager

ATTEST:

\_\_\_\_\_  
Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III  
City Attorney

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

## TAXICAB FRANCHISE AGREEMENT

THIS AGREEMENT is made this 27 day of January, 2004, by the CITY OF TORRANCE, a municipal corporation, ("CITY"), and Bell Cab Co. Inc., (hereinafter referred to as "FRANCHISEE").

### RECITALS

The following recitals are a substantive part of this Agreement:

1. City is desirous of regulating taxicab services for the benefit of the residents and visitors of Torrance and has determined that the most effective way to do so is by the granting of non-exclusive franchises which regulate the time, place and manner of provision of taxi services by private companies;
2. FRANCHISEE is qualified by virtue of experience, training, education, and expertise to be granted such a franchise.

### AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Grant of Franchise.** CITY hereby grants a non-exclusive franchise to FRANCHISEE for the provision of taxi services within the City's boundaries.
2. **Term of Agreement.** This Agreement shall terminate three years from the effective date of this Agreement unless earlier terminated as provided below. Additionally, the City Council has the option to extend the Agreement for no more than two one-year terms.

2.1 **Termination.** The City reserves the right to terminate the individual franchise agreements without cause by providing the Franchisee with 30 days written notice. Upon receipt of a termination notice, FRANCHISEE must: (1) promptly discontinue all services affected unless the notice directs otherwise; (2) promptly remove all vehicle decals authorizing operations within the CITY; and (3) return all driver identification cards issued by CITY. Any prepaid franchise fees will be refunded on a prorated basis for the remaining franchise period. If termination by the City is warranted due to default in franchise obligations by the Franchisee, termination will be determined pursuant to the provisions of the Torrance Municipal Code.

3. **Nature of Franchise.** The rights and responsibilities of FRANCHISEE shall include those outlined in the City's Request for Proposal (attachment "A"), the FRANCHISEE's proposal (Attachment "B"), the addendum (Attachment "C"), and the City's Taxicab Franchise Ordinance that is found in Article 16 of Chapter 3 of Division 3 of the Torrance Municipal Code, which are incorporated herein by this reference.

4. **Compensation.** FRANCHISEE shall compensate CITY as follows:

a) Annual Franchise Fee of \$30,000 plus \$100 per cab per year. FRANCHISEE has requested a total of 40 cabs. The total fee for FRANCHISEE is \$34,000 payable in advance of Franchise Period commencement and annually thereafter.

5. **Employees and Subcontractors.** FRANCHISEE may, at FRANCHISEE'S sole cost and expense, employ such other person as may, in the opinion of FRANCHISEE, be needed to comply with the terms of this Agreement, if such persons possess the necessary qualifications to perform such services.

6. **Insurance Requirements.** Proof that the FRANCHISEE maintains, at its sole expense, insurance meeting the following requirements, which shall be in full coverage not subject to self-insurance provisions:

A. Separate commercial automobile liability insurance, utilizing coverage from CA001, for each vehicle proposed to be operated within the City pursuant to the operator's permit, with at least the following limits of liability:

- a) Primary Bodily Injury with limits of at least two hundred fifty thousand dollars (\$250,000.00) per person and five hundred thousand dollars (\$500,000.00) per occurrence; and Primary Property Damage of at least one hundred thousand dollars (\$100,000.00) per occurrence; or
  - b) Combined single limits of five hundred thousand dollars (\$500,000.00) per occurrence.
- 1) General liability including coverage for premises, independent contractors/vendors, personal injury and contractual obligations with combined single limits of at least five hundred thousand dollars (\$500,000.00) per occurrence.
  - 2) Workers' Compensation with limits as required by the State of California and Employer's Liability with limits of at least five hundred thousand dollars (\$500,000.00).
  - 3) Insurance provided by the franchisee must be primary and non-contributory.
  - 4) Required insurance must be issued by companies admitted to do business in California, rated "B+" or better in the most recent edition of Best's Key Rating Guide, and only if they are of a financial category Class VII or better, unless these requirements are modified or waived in writing by the Risk Manager of the City due to unique circumstances.
  - 5) The City, the City Council, and each present and former member of the City Council, City boards and commissions, and every officer, agent, official, employee

and volunteer of the City (collectively, "City entities") must be named as additional insured under the automobile and general liability policy.

- 6) Each policy of required insurance must contain a provision that no termination cancellation or change of coverage can be made without thirty (30) days notice to the City.
- 7) The applicant must provide certificates of insurance and/or endorsements to the City Clerk of the City of Torrance prior to issuance of a permit.
- 8) The insurance carrier for the franchisee must provide a complete copy of the insurance policy, including all forms and endorsements to the Risk Manager of the City of Torrance within 60 days of commencement of work.

**7. Non-Liability of Officials and Employees of the CITY.** No officer or employee of CITY will be personally liable to FRANCHISEE, in the event of any default or breach by the CITY or for any amount that may become due to FRANCHISEE.

**8. Non-Discrimination.** FRANCHISEE covenants there shall be no discrimination based upon race, color, creed, religion, sex, marital status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.

**9. Independent Contractor.** The FRANCHISEE is, and at all times will remain as to CITY, a wholly independent contractor. Neither CITY nor any of its agents will have control over the conduct of the FRANCHISEE or any of the FRANCHISEE's employees, except as otherwise set forth in this Agreement. The FRANCHISEE may not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

**10. Compliance with Statutes and Regulations.** FRANCHISEE will be knowledgeable of and will comply with all applicable federal, state, county and city statutes, rules, regulations, ordinances and orders.

**11. Conflict of Interest.**

- A. No officer or employee of the CITY may have any financial interest, direct or indirect, in this Agreement, nor may any officer or employee participate in any decision relating to the Agreement that effects the officer or employee's financial interest or the financial interest of any corporation, partnership or association in which the officer or employee is, directly or indirectly interested, in violation of any law, rule or regulation.
- B. No person may offer, give, or agree to give any officer or employee or former officer or employee, nor may any officer or employee solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request,

influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any way pertaining to any program requirement, contract or subcontract, or to any solicitation or proposal.

## 12. Notices.

A. All notices, requests, demands, or other communications under this Agreement will be in writing. Notice will be sufficiently given for all purposes as follows:

1. Personal delivery. When personally delivered to the recipient: notice is effective on delivery.

2. First Class mail. When mailed first class to the last address of the recipient known to the party giving notice: notice is effective three mail delivery days after deposit in an United States Postal Service office or mailbox.

3. Certified mail. When mailed certified mail, return receipt requested: notice is effective on receipt, if delivery is confirmed by a return receipt.

4. Overnight delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account: notice is effective on delivery, if delivery is confirmed by the delivery service.

5. Facsimile transmission. When sent by fax to the last fax number of the recipient known to the party giving notice: notice is effective on receipt. Any notice given by fax will be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

6. Addresses for purpose of giving notice are as follows:

a. Address of FRANCHISEE is as follows:

Bell Cab Co. Inc.  
13030 Cerise Ave.  
Hawthorne, California 90250  
Fax: (310) 676-1637

b. Address of CITY is as follows:

City Clerk  
City of Torrance  
3031 Torrance Boulevard  
Torrance, CA 90509-2970  
Fax: (310) 618-2931

(with a copy to):

Risk Manager  
 City of Torrance  
 3231 Torrance Blvd.  
 Torrance, CA 90503  
 Fax: (310)618-2927

B. Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified, will be deemed effective as of the first date the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messenger or overnight delivery service.

C. Either party may change its address or fax number by giving the other party notice of the change in any manner permitted by this Agreement.

13. **FRANCHISEE'S Proposal.** This Agreement shall include CITY's RFP (Attachment A) and FRANCHISEE'S proposal (Attachment B) which are incorporated herein. In the event of any inconsistency between the terms of the RFP or proposal and this Agreement, this Agreement shall govern.

14. **Prohibition Against Assignment And Subcontracting.** This Agreement and all exhibits are binding on the heirs, successors, and assigns of the parties. The Agreement may not be assigned or subcontracted by either CITY or FRANCHISEE without the prior written consent of the other.

15. **FRANCHISEE's Authority To Execute.** The persons executing this Agreement on behalf of the FRANCHISEE warrant that (i) the FRANCHISEE is duly organized and existing; (ii) they are duly authorized to execute this Agreement on behalf of the FRANCHISEE; (iii) by so executing this Agreement, the FRANCHISEE is formally bound to the provisions of this Agreement; and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the FRANCHISEE is bound..

16. **Indemnification.** FRANCHISEE will indemnify, defend, and hold harmless CITY, the City Council, each member thereof, present and future, its officers, agents and employees from and against any and all liability, expenses, including defense costs and legal fees, and claims for damages whatsoever, including, but not limited to, those arising from breach of contract, bodily injury, death, personal injury, property damage, loss of use, or property loss however the same may be caused and regardless of the responsibility for negligence. The obligation to indemnify, defend and hold harmless includes, but is not limited to, any liability or expense, including defense costs and legal fees, arising from the negligent acts or omissions, or willful misconduct of FRANCHISEE, its officers, employees, agents, subcontractors or vendors. It is further agreed, FRANCHISEE's obligations to indemnify, defend and hold harmless will apply even in the event of concurrent negligence on the part of CITY, the City Council, each member thereof, present and future, or its officers, agents and employees, except for liability resulting solely from

the negligence or willful misconduct of CITY, its officers, employees or agents. Payment by CITY is not a condition precedent to enforcement of this indemnity. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by FRANCHISEE. In the event of any dispute between FRANCHISEE and CITY, as to whether liability arises from the sole negligence of the CITY or its officers, employees, agents, subcontractors or vendors, FRANCHISEE will be obligated to pay for CITY's defense until such time as a final judgment has been entered adjudicating the CITY as solely negligent. FRANCHISEE will not be entitled in the event of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

**17. Integration; Amendment.** This Agreement represents the entire understanding of CITY and FRANCHISEE as to those matters contained in it. No prior oral or written understanding will be of any force or effect with respect to the terms of this Agreement. The Agreement may not be modified or altered except in writing signed by both parties.

**18. Governing Law; Jurisdiction.** This Agreement will be administered and interpreted under the laws of the State of California. Jurisdiction of any litigation arising from the Agreement will be in Los Angeles County, California.

**19. Interpretation.** The terms of this Agreement should be construed in accordance with the meaning of the language used and should not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction that might otherwise apply.

**20. Severability.** If any part of this Agreement is found to be in conflict with applicable laws, that part will be inoperative, null and void insofar as it is in conflict with any applicable laws, but the remainder of the Agreement will remain in full force and effect.

**21. Attorney's Fees.** Except as provided for in Paragraph 16, in any dispute, litigation, arbitration, or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party will be awarded reasonable attorney's fees, together with any costs and expenses, to resolve the dispute and to enforce any judgment.

**22. Waiver Of Breach.** No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default will impair the right or remedy or be construed as a waiver. A party's consent or approval of any act by the other party requiring the party's consent or approval will not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and will not be a waiver of any other default concerning the same or any other provision of this Agreement.

**23. Decals.** A total of 40 decals shall be issued by CITY to the FRANCHISEE after FRANCHISEE successfully meets the contract advance requirements, including but not limited to, insurance, vehicle listing, driver identification cards, etc. If, during the franchise period, the FRANCHISEE needs replacement decals, the FRANCHISEE shall provide the old decal to

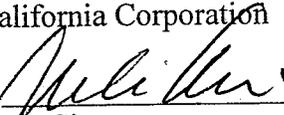
CITY as proof of non-duplication. A fee of \$10 will be paid to CITY for processing the replacement decal request and for providing the replacement decal.

IN WITNESS THEREOF, the parties hereto have executed this Agreement on the day and year first shown above.

CITY OF TORRANCE  
a Municipal Corporation

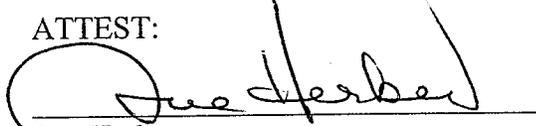
  
\_\_\_\_\_  
Dan Walker, Mayor

Bell Cab Co. Inc.  
a California Corporation

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

Vice President - Gen Mgr.  
Title

ATTEST:

  
\_\_\_\_\_  
Sue Herbers  
City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III  
City Attorney

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

## FIRST AMENDMENT TO AGREEMENT

This First Amendment to Agreement (F2004-037) is made and entered into as of January 23, 2007 (the "Effective Date"), by and between the CITY OF TORRANCE ("CITY"), a municipal Corporation, and South Bay Yellow Cab Co-Op Inc, a California corporation ("FRANCHISEE").

### RECITALS:

- A. CITY and FRANCHISEE entered into an Agreement on January 27, 2004, whereby CITY granted a non-exclusive franchise to FRANCHISEE for the provision of taxi services within CITY's boundaries.
- B. CITY wishes to exercise its option for an additional one-year term.

### AGREEMENT:

- 1. Paragraph 2, entitled Term of Agreement, is amended to read in its entirety as follows:

"2. **Term of Agreement.** This Agreement shall terminate one year from the Effective Date of this agreement unless earlier terminated as provided in Paragraph 2.1. Additionally, the City Council has the option to extend the Agreement for no more than one one-year term."

- 2. In all other respects, the Agreement dated January 27, 2004 between CITY and FRANCHISEE is ratified and reaffirmed and is in full force and effect.

CITY OF TORRANCE,  
A Municipal Corporation

South Bay Yellow Cab Co-Op Inc.,  
a California corporation

By \_\_\_\_\_  
Frank Scotto, Mayor

By \_\_\_\_\_  
Raymond McGrevey  
President

ATTEST:

\_\_\_\_\_  
Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III  
City Attorney

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

## TAXICAB FRANCHISE AGREEMENT

THIS AGREEMENT is made this 27 day of January, 2004, by the CITY OF TORRANCE, a municipal corporation, ("CITY"), and South Bay Yellow Cab Co-Op Inc., (hereinafter referred to as "FRANCHISEE").

### RECITALS

The following recitals are a substantive part of this Agreement:

1. City is desirous of regulating taxicab services for the benefit of the residents and visitors of Torrance and has determined that the most effective way to do so is by the granting of non-exclusive franchises which regulate the time, place and manner of provision of taxi services by private companies;
2. FRANCHISEE is qualified by virtue of experience, training, education, and expertise to be granted such a franchise.

### AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Grant of Franchise.** CITY hereby grants a non-exclusive franchise to FRANCHISEE for the provision of taxi services within the City's boundaries.
2. **Term of Agreement.** This Agreement shall terminate three years from the effective date of this Agreement unless earlier terminated as provided below. Additionally, the City Council has the option to extend the Agreement for no more than two one-year terms.
  - 2.1 **Termination.** The City reserves the right to terminate the individual franchise agreements without cause by providing the Franchisee with 30 days written notice. Upon receipt of a termination notice, FRANCHISEE must: (1) promptly discontinue all services affected unless the notice directs otherwise; (2) promptly remove all vehicle decals authorizing operations within the CITY; and (3) return all driver identification cards issued by CITY. Any prepaid franchise fees will be refunded on a prorated basis for the remaining franchise period. If termination by the City is warranted due to default in franchise obligations by the Franchisee, termination will be determined pursuant to the provisions of the Torrance Municipal Code.
3. **Nature of Franchise.** The rights and responsibilities of FRANCHISEE shall include those outlined in the City's Request for Proposal (attachment "A"), the FRANCHISEE's proposal (Attachment "B"), the addendum (Attachment "C"), and the City's Taxicab Franchise Ordinance that is found in Article 16 of Chapter 3 of Division 3 of the Torrance Municipal Code, which are incorporated herein by this reference.

F20004-037

4. **Compensation.** FRANCHISEE shall compensate CITY as follows:

a) Annual Franchise Fee of \$30,000 plus \$100 per cab per year. FRANCHISEE has requested a total of 97 cabs. The total fee for FRANCHISEE is \$39,700 payable in advance of Franchise Period commencement and annually thereafter.

5. **Employees and Subcontractors.** FRANCHISEE may, at FRANCHISEE'S sole cost and expense, employ such other person as may, in the opinion of FRANCHISEE, be needed to comply with the terms of this Agreement, if such persons possess the necessary qualifications to perform such services.

6. **Insurance Requirements.** Proof that the FRANCHISEE maintains, at its sole expense, insurance meeting the following requirements, which shall be in full coverage not subject to self-insurance provisions:

A. Separate commercial automobile liability insurance, utilizing coverage from CA001, for each vehicle proposed to be operated within the City pursuant to the operator's permit, with at least the following limits of liability:

- a) Primary Bodily Injury with limits of at least two hundred fifty thousand dollars (\$250,000.00) per person and five hundred thousand dollars (\$500,000.00) per occurrence; and Primary Property Damage of at least one hundred thousand dollars (\$100,000.00) per occurrence; or
  - b) Combined single limits of five hundred thousand dollars (\$500,000.00) per occurrence.
- 1) General liability including coverage for premises, independent contractors/vendors, personal injury and contractual obligations with combined single limits of at least five hundred thousand dollars (\$500,000.00) per occurrence.
  - 2) Workers' Compensation with limits as required by the State of California and Employer's Liability with limits of at least five hundred thousand dollars (\$500,000.00).
  - 3) Insurance provided by the franchisee must be primary and non-contributory.
  - 4) Required insurance must be issued by companies admitted to do business in California, rated "B+" or better in the most recent edition of Best's Key Rating Guide, and only if they are of a financial category Class VII or better, unless these requirements are modified or waived in writing by the Risk Manager of the City due to unique circumstances.
  - 5) The City, the City Council, and each present and former member of the City Council, City boards and commissions, and every officer, agent, official, employee

and volunteer of the City (collectively, "City entities") must be named as additional insured under the automobile and general liability policy.

- 6) Each policy of required insurance must contain a provision that no termination cancellation or change of coverage can be made without thirty (30) days notice to the City.
- 7) The applicant must provide certificates of insurance and/or endorsements to the City Clerk of the City of Torrance prior to issuance of a permit.
- 8) The insurance carrier for the franchisee must provide a complete copy of the insurance policy, including all forms and endorsements to the Risk Manager of the City of Torrance within 60 days of commencement of work.

7. **Non-Liability of Officials and Employees of the CITY.** No officer or employee of CITY will be personally liable to FRANCHISEE, in the event of any default or breach by the CITY or for any amount that may become due to FRANCHISEE.

8. **Non-Discrimination.** FRANCHISEE covenants there shall be no discrimination based upon race, color, creed, religion, sex, marital status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.

9. **Independent Contractor.** The FRANCHISEE is, and at all times will remain as to CITY, a wholly independent contractor. Neither CITY nor any of its agents will have control over the conduct of the FRANCHISEE or any of the FRANCHISEE's employees, except as otherwise set forth in this Agreement. The FRANCHISEE may not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

10. **Compliance with Statutes and Regulations.** FRANCHISEE will be knowledgeable of and will comply with all applicable federal, state, county and city statutes, rules, regulations, ordinances and orders.

11. **Conflict of Interest.**

- A. No officer or employee of the CITY may have any financial interest, direct or indirect, in this Agreement, nor may any officer or employee participate in any decision relating to the Agreement that effects the officer or employee's financial interest or the financial interest of any corporation, partnership or association in which the officer or employee is, directly or indirectly interested, in violation of any law, rule or regulation.
- B. No person may offer, give, or agree to give any officer or employee or former officer or employee, nor may any officer or employee solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request,

influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any way pertaining to any program requirement, contract or subcontract, or to any solicitation or proposal.

## 12. Notices.

A. All notices, requests, demands, or other communications under this Agreement will be in writing. Notice will be sufficiently given for all purposes as follows:

1. Personal delivery. When personally delivered to the recipient: notice is effective on delivery.

2. First Class mail. When mailed first class to the last address of the recipient known to the party giving notice: notice is effective three mail delivery days after deposit in an United States Postal Service office or mailbox.

3. Certified mail. When mailed certified mail, return receipt requested: notice is effective on receipt, if delivery is confirmed by a return receipt.

4. Overnight delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account: notice is effective on delivery, if delivery is confirmed by the delivery service.

5. Facsimile transmission. When sent by fax to the last fax number of the recipient known to the party giving notice: notice is effective on receipt. Any notice given by fax will be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

6. Addresses for purpose of giving notice are as follows:

a. Address of FRANCHISEE is as follows:

South Bay Yellow Cab Co-Op Inc  
2129 W. Rosecrans Avenue  
Gardena, California 90249  
Fax: (310) 327-1703

b. Address of CITY is as follows:

City Clerk  
City of Torrance  
3031 Torrance Boulevard  
Torrance, CA 90509-2970  
Fax: (310) 618-2931

(with a copy to):

Risk Manager  
 City of Torrance  
 3231 Torrance Blvd.  
 Torrance, CA 90503  
 Fax: (310)618-2927

B. Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified, will be deemed effective as of the first date the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messenger or overnight delivery service.

C. Either party may change its address or fax number by giving the other party notice of the change in any manner permitted by this Agreement.

13. **FRANCHISEE's Proposal**. This Agreement shall include CITY's RFP (Attachment A) and FRANCHISEE'S proposal (Attachment B) which are incorporated herein. In the event of any inconsistency between the terms of the RFP or proposal and this Agreement, this Agreement shall govern.

14. **Prohibition Against Assignment And Subcontracting**. This Agreement and all exhibits are binding on the heirs, successors, and assigns of the parties. The Agreement may not be assigned or subcontracted by either CITY or FRANCHISEE without the prior written consent of the other.

15. **FRANCHISEE's Authority To Execute**. The persons executing this Agreement on behalf of the FRANCHISEE warrant that (i) the FRANCHISEE is duly organized and existing; (ii) they are duly authorized to execute this Agreement on behalf of the FRANCHISEE; (iii) by so executing this Agreement, the FRANCHISEE is formally bound to the provisions of this Agreement; and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the FRANCHISEE is bound..

16. **Indemnification**. FRANCHISEE will indemnify, defend, and hold harmless CITY, the City Council, each member thereof, present and future, its officers, agents and employees from and against any and all liability, expenses, including defense costs and legal fees, and claims for damages whatsoever, including, but not limited to, those arising from breach of contract, bodily injury, death, personal injury, property damage, loss of use, or property loss however the same may be caused and regardless of the responsibility for negligence. The obligation to indemnify, defend and hold harmless includes, but is not limited to, any liability or expense, including defense costs and legal fees, arising from the negligent acts or omissions, or willful misconduct of FRANCHISEE, its officers, employees, agents, subcontractors or vendors. It is further agreed, FRANCHISEE's obligations to indemnify, defend and hold harmless will apply even in the event of concurrent negligence on the part of CITY, the City Council, each member thereof, present and future, or its officers, agents and employees, except for liability resulting solely from

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21. **Attorney's Fees.** Except as provided for in Paragraph 16, in any dispute, litigation, arbitration, or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party will be awarded reasonable attorney's fees, together with any costs and expenses, to resolve the dispute and to enforce any judgment.

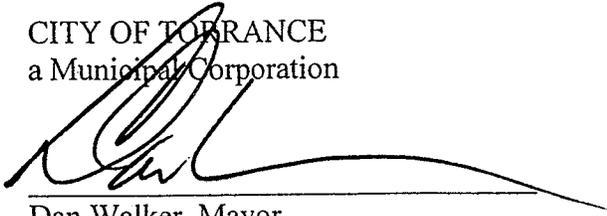
22. **Waiver Of Breach.** No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default will impair the right or remedy or be construed as a waiver. A party's consent or approval of any act by the other party requiring the party's consent or approval will not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and will not be a waiver of any other default concerning the same or any other provision of this Agreement.

23. **Decals.** A total of 97 decals shall be issued by CITY to the FRANCHISEE after FRANCHISEE successfully meets the contract advance requirements, including but not limited to, insurance, vehicle listing, driver identification cards, etc. If, during the franchise period, the FRANCHISEE needs replacement decals, the FRANCHISEE shall provide the old decal to

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IN WITNESS THEREOF, the parties hereto have executed this Agreement on the day and year first shown above.

CITY OF TORRANCE  
a Municipal Corporation

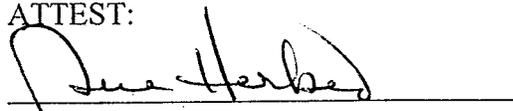
  
\_\_\_\_\_  
Dan Walker, Mayor

South Bay Yellow Cab Co-Op Inc.  
a Cooperative Corporation

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

  
\_\_\_\_\_  
Title

ATTEST:

  
\_\_\_\_\_  
Sue Herbers  
City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III  
City Attorney

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

## FIRST AMENDMENT TO AGREEMENT

This First Amendment to Agreement (F2004-038) is made and entered into as of January 23, 2007 (the "Effective Date"), by and between the CITY OF TORRANCE ("CITY"), a municipal Corporation, and United Checker Cab Co-Op Inc, a California corporation ("FRANCHISEE").

### RECITALS:

- A. CITY and FRANCHISEE entered into an Agreement on January 27, 2004, whereby CITY granted a non-exclusive franchise to FRANCHISEE for the provision of taxi services within CITY's boundaries.
- B. CITY wishes to exercise its option for an additional one-year term.

### AGREEMENT:

- 1. Paragraph 2, entitled Term of Agreement, is amended to read in its entirety as follows:

"2. **Term of Agreement.** This Agreement shall terminate one year from the Effective Date of this agreement unless earlier terminated as provided in Paragraph 2.1. Additionally, the City Council has the option to extend the Agreement for no more than one one-year term."

- 2. In all other respects, the Agreement dated January 27, 2004 between CITY and FRANCHISEE is ratified and reaffirmed and is in full force and effect.

CITY OF TORRANCE,  
A Municipal Corporation

United Checker Cab Co-Op Inc.,  
a California corporation

By \_\_\_\_\_  
Frank Scotto, Mayor

By \_\_\_\_\_  
Raymond C. McGrevey  
President

ATTEST:

\_\_\_\_\_  
Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III  
City Attorney

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

## TAXICAB FRANCHISE AGREEMENT

THIS AGREEMENT is made this 27 day of January, 2004, by the CITY OF TORRANCE, a municipal corporation, ("CITY"), and United Checker Cab Co-Op, (hereinafter referred to as "FRANCHISEE").

### RECITALS

The following recitals are a substantive part of this Agreement:

1. City is desirous of regulating taxicab services for the benefit of the residents and visitors of Torrance and has determined that the most effective way to do so is by the granting of non-exclusive franchises which regulate the time, place and manner of provision of taxi services by private companies;

2. FRANCHISEE is qualified by virtue of experience, training, education, and expertise to be granted such a franchise.

### AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Grant of Franchise.** CITY hereby grants a non-exclusive franchise to FRANCHISEE for the provision of taxi services within the City's boundaries.

2. **Term of Agreement.** This Agreement shall terminate three years from the effective date of this Agreement unless earlier terminated as provided below. Additionally, the City Council has the option to extend the Agreement for no more than two one-year terms.

2.1 **Termination.** The City reserves the right to terminate the individual franchise agreements without cause by providing the Franchisee with 30 days written notice. Upon receipt of a termination notice, FRANCHISEE must: (1) promptly discontinue all services affected unless the notice directs otherwise; (2) promptly remove all vehicle decals authorizing operations within the CITY; and (3) return all driver identification cards issued by CITY. Any prepaid franchise fees will be refunded on a prorated basis for the remaining franchise period. If termination by the City is warranted due to default in franchise obligations by the Franchisee, termination will be determined pursuant to the provisions of the Torrance Municipal Code.

3. **Nature of Franchise.** The rights and responsibilities of FRANCHISEE shall include those outlined in the City's Request for Proposal (attachment "A"), the FRANCHISEE's proposal (Attachment "B"), the addendum (Attachment "C"), and the City's Taxicab Franchise Ordinance that is found in Article 16 of Chapter 3 of Division 3 of the Torrance Municipal Code, which are incorporated herein by this reference.

4. **Compensation.** FRANCHISEE shall compensate CITY as follows:

a) Annual Franchise Fee of \$30,000 plus \$100 per cab per year. FRANCHISEE has requested a total of 70 cabs. The total fee for FRANCHISEE is \$37,000 payable in advance of Franchise Period commencement and annually thereafter.

5. **Employees and Subcontractors.** FRANCHISEE may, at FRANCHISEE'S sole cost and expense, employ such other person as may, in the opinion of FRANCHISEE, be needed to comply with the terms of this Agreement, if such persons possess the necessary qualifications to perform such services.

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A. Separate commercial automobile liability insurance, utilizing coverage from CA001, for each vehicle proposed to be operated within the City pursuant to the operator's permit, with at least the following limits of liability:

- a) Primary Bodily Injury with limits of at least two hundred fifty thousand dollars (\$250,000.00) per person and five hundred thousand dollars (\$500,000.00) per occurrence; and Primary Property Damage of at least one hundred thousand dollars (\$100,000.00) per occurrence; or
  - b) Combined single limits of five hundred thousand dollars (\$500,000.00) per occurrence.
- 1) General liability including coverage for premises, independent contractors/vendors, personal injury and contractual obligations with combined single limits of at least five hundred thousand dollars (\$500,000.00) per occurrence.
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  - 3) Insurance provided by the franchisee must be primary and non-contributory.
  - 4) Required insurance must be issued by companies admitted to do business in California, rated "B+" or better in the most recent edition of Best's Key Rating Guide, and only if they are of a financial category Class VII or better, unless these requirements are modified or waived in writing by the Risk Manager of the City due to unique circumstances.
  - 5) The City, the City Council, and each present and former member of the City Council, City boards and commissions, and every officer, agent, official, employee

and volunteer of the City (collectively, "City entities") must be named as additional insured under the automobile and general liability policy.

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**8. Non-Discrimination.** FRANCHISEE covenants there shall be no discrimination based upon race, color, creed, religion, sex, marital status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.

**9. Independent Contractor.** The FRANCHISEE is, and at all times will remain as to CITY, a wholly independent contractor. Neither CITY nor any of its agents will have control over the conduct of the FRANCHISEE or any of the FRANCHISEE's employees, except as otherwise set forth in this Agreement. The FRANCHISEE may not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

**10. Compliance with Statutes and Regulations.** FRANCHISEE will be knowledgeable of and will comply with all applicable federal, state, county and city statutes, rules, regulations, ordinances and orders.

**11. Conflict of Interest.**

- A. No officer or employee of the CITY may have any financial interest, direct or indirect, in this Agreement, nor may any officer or employee participate in any decision relating to the Agreement that effects the officer or employee's financial interest or the financial interest of any corporation, partnership or association in which the officer or employee is, directly or indirectly interested, in violation of any law, rule or regulation.
- B. No person may offer, give, or agree to give any officer or employee or former officer or employee, nor may any officer or employee solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request,

influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any way pertaining to any program requirement, contract or subcontract, or to any solicitation or proposal.

## 12. Notices.

A. All notices, requests, demands, or other communications under this Agreement will be in writing. Notice will be sufficiently given for all purposes as follows:

1. Personal delivery. When personally delivered to the recipient: notice is effective on delivery.

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3. Certified mail. When mailed certified mail, return receipt requested: notice is effective on receipt, if delivery is confirmed by a return receipt.

4. Overnight delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account: notice is effective on delivery, if delivery is confirmed by the delivery service.

5. Facsimile transmission. When sent by fax to the last fax number of the recipient known to the party giving notice: notice is effective on receipt. Any notice given by fax will be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

6. Addresses for purpose of giving notice are as follows:

a. Address of FRANCHISEE is as follows:

United Checker Cab Co-Op  
2129 W. Rosecrans Avenue  
Gardena, California 90249  
Fax: (310) 327-1703

b. Address of CITY is as follows:

City Clerk  
City of Torrance  
3031 Torrance Boulevard  
Torrance, CA 90509-2970  
Fax: (310) 618-2931

(with a copy to):

Risk Manager  
 City of Torrance  
 3231 Torrance Blvd.  
 Torrance, CA 90503  
 Fax: (310)618-2927

B. Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified, will be deemed effective as of the first date the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messenger or overnight delivery service.

C. Either party may change its address or fax number by giving the other party notice of the change in any manner permitted by this Agreement.

13. **FRANCHISEE'S Proposal.** This Agreement shall include CITY's RFP (Attachment A) and FRANCHISEE'S proposal (Attachment B) which are incorporated herein. In the event of any inconsistency between the terms of the RFP or proposal and this Agreement, this Agreement shall govern.

14. **Prohibition Against Assignment And Subcontracting.** This Agreement and all exhibits are binding on the heirs, successors, and assigns of the parties. The Agreement may not be assigned or subcontracted by either CITY or FRANCHISEE without the prior written consent of the other.

15. **FRANCHISEE's Authority To Execute.** The persons executing this Agreement on behalf of the FRANCHISEE warrant that (i) the FRANCHISEE is duly organized and existing; (ii) they are duly authorized to execute this Agreement on behalf of the FRANCHISEE; (iii) by so executing this Agreement, the FRANCHISEE is formally bound to the provisions of this Agreement; and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the FRANCHISEE is bound..

16. **Indemnification.** FRANCHISEE will indemnify, defend, and hold harmless CITY, the City Council, each member thereof, present and future, its officers, agents and employees from and against any and all liability, expenses, including defense costs and legal fees, and claims for damages whatsoever, including, but not limited to, those arising from breach of contract, bodily injury, death, personal injury, property damage, loss of use, or property loss however the same may be caused and regardless of the responsibility for negligence. The obligation to indemnify, defend and hold harmless includes, but is not limited to, any liability or expense, including defense costs and legal fees, arising from the negligent acts or omissions, or willful misconduct of FRANCHISEE, its officers, employees, agents, subcontractors or vendors. It is further agreed, FRANCHISEE's obligations to indemnify, defend and hold harmless will apply even in the event of concurrent negligence on the part of CITY, the City Council, each member thereof, present and future, or its officers, agents and employees, except for liability resulting solely from

the negligence or willful misconduct of CITY, its officers, employees or agents. Payment by CITY is not a condition precedent to enforcement of this indemnity. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by FRANCHISEE. In the event of any dispute between FRANCHISEE and CITY, as to whether liability arises from the sole negligence of the CITY or its officers, employees, agents, subcontractors or vendors, FRANCHISEE will be obligated to pay for CITY's defense until such time as a final judgment has been entered adjudicating the CITY as solely negligent. FRANCHISEE will not be entitled in the event of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

**17. Integration; Amendment.** This Agreement represents the entire understanding of CITY and FRANCHISEE as to those matters contained in it. No prior oral or written understanding will be of any force or effect with respect to the terms of this Agreement. The Agreement may not be modified or altered except in writing signed by both parties.

**18. Governing Law; Jurisdiction.** This Agreement will be administered and interpreted under the laws of the State of California. Jurisdiction of any litigation arising from the Agreement will be in Los Angeles County, California.

**19. Interpretation.** The terms of this Agreement should be construed in accordance with the meaning of the language used and should not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction that might otherwise apply.

**20. Severability.** If any part of this Agreement is found to be in conflict with applicable laws, that part will be inoperative, null and void insofar as it is in conflict with any applicable laws, but the remainder of the Agreement will remain in full force and effect.

**21. Attorney's Fees.** Except as provided for in Paragraph 16, in any dispute, litigation, arbitration, or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party will be awarded reasonable attorney's fees, together with any costs and expenses, to resolve the dispute and to enforce any judgment.

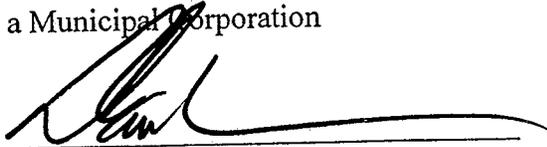
**22. Waiver Of Breach.** No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default will impair the right or remedy or be construed as a waiver. A party's consent or approval of any act by the other party requiring the party's consent or approval will not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and will not be a waiver of any other default concerning the same or any other provision of this Agreement.

**23. Decals.** A total of 70 decals shall be issued by CITY to the FRANCHISEE after FRANCHISEE successfully meets the contract advance requirements, including but not limited to, insurance, vehicle listing, driver identification cards, etc. If, during the franchise period, the FRANCHISEE needs replacement decals, the FRANCHISEE shall provide the old decal to

CITY as proof of non-duplication. A fee of \$10 will be paid to CITY for processing the replacement decal request and for providing the replacement decal.

IN WITNESS THEREOF, the parties hereto have executed this Agreement on the day and year first shown above.

CITY OF TORRANCE  
a Municipal Corporation



Dan Walker, Mayor

United Checker Cab-Co-Op Inc.  
a Cooperative Corporation

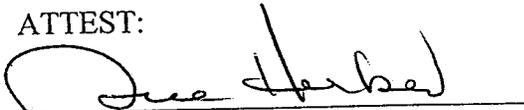
By:   
Signer

RAYMOND C. MCGEE

PRESIDENT

Title

ATTEST:



Sue Herbers  
City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III  
City Attorney

By: 