

Council Meeting
August 28, 2007

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

Members of the City Council:

SUBJECT: Three-Month Extension of Agreement C90-099 between
Torrance Transit System and CBS Outdoor, Inc.

EXPENDITURE: Not applicable

RECOMMENDATION

The Transit Director recommends that the Council approve a three-month extension of the Agreement C90-099 between Torrance Transit System and CBS Outdoor, Inc. (CBS Outdoor). The term of this extension is from September 5, 2007 through December 4, 2007.

FUNDING

Not applicable.

BACKGROUND

Agreement C90-099 was entered into on September 4, 1990 between the City of Torrance and Gannett Outdoor Co., Inc. (Gannett). The Agreement was for the maintenance of existing bus shelters, and installation and maintenance of new shelters. The shelters serve as upgraded bus stops at some of the more popular stops in the City as well as a revenue source for Torrance Transit. The First Amendment was approved by Council on April 1, 1997 and the Second Amendment was approved by Council on February 23, 1999. The two amendments have served to reflect the change in ownership of Gannett, the addition of more shelter sites, and an increase in the compensation rate to Torrance Transit.

ANALYSIS

Currently, Transit staff is reviewing terms of a long-term extension of the Agreement C90-099 between Torrance Transit System and CBS Outdoor. Transit staff would like to ensure that all relevant City departments are satisfied

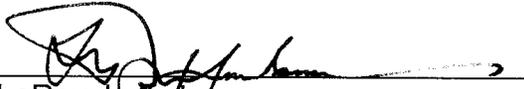
with the provisions and term of this extension. In order to ensure that all relevant input is secured and that comparisons with other cities and vendors are made, transit staff estimates that three additional months are required. Negotiations with CBS Outdoor on this long-term extension have been conducted for the past several months and are continuing.

Respectfully submitted,



Kim Turner
Transit Director

Concur:


LeRoy J. Jackson
City Manager

Attachments:

- A. Third Amendment to Agreement C90-099 dated September 5, 2007.
- B. Second Amendment to Agreement C90-099 dated February 23, 1999
- C. First Amendment to Agreement C90-099 dated April 1, 1997
- D. Agreement C90-099, City of Torrance Agreement for Bus Shelters dated September 4, 1990.

THIRD AMENDMENT TO AGREEMENT (C90-099)

This Third Amendment to Agreement is made and entered into as of _____, 2007 ("Effective Date"), by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and Outdoor Systems Advertising, Inc., a Delaware corporation ("CONTRACTOR").

RECITALS:

- A. CITY and Gannet Outdoor, Co. Inc. ("Gannet"), entered into an Agreement on September 4, 1990, whereby Gannet agreed to maintain existing bus shelters located within the CITY. CITY agreed to provide CONTRACTOR with the right to construct, maintain, insure and advertise on additional shelters on city-owned property.
- B. The term of the Agreement was for ten years.
- C. On April 1, 1997, CITY consented to the assignment from Gannet to CONTRACTOR and CONTRACTOR accepted the assignment .
- D. CITY and CONTRACTOR extended the Agreement by way of a Second Amendment for an additional seven years, expiring September 5, 2007.
- E. Both parties now wish to extend the Agreement for an additional ninety days.

AGREEMENT:

- 1. Paragraph 15, entitled Term, is amended to read in its entirety as follows:

"15. Term.

This Agreement will terminate on December 3, 2007. At the expiration of the term, CITY will retain full ownership of all forty-seven replacement shelters and all new shelters that were installed in accordance with this Agreement. However, CITY will pay CONTRACTOR the fair market value of those shelters that were installed within two years of the expiration of the Agreement."

- 2. A new Paragraph 24, entitled CONTRACTOR's Authority to Execute, is added to read as follows:

"24. CONTRACTOR's Authority to Execute.

The person(s) executing this Agreement and all Amendments on behalf of the CONTRACTOR warrant that (i) the CONTRACTOR is duly organized and existing; (ii) they are duly authorized to execute this Agreement and all Amendments on behalf of the CONTRACTOR; (iii) by so executing this Agreement and all Amendments thereto, the CONTRACTOR is formally bound to the provisions of this Agreement and all Amendments; and (iv) the entering into this Agreement and all Amendments does not violate any provision of any other Agreement to which the CONTRACTOR is bound."

3. In all other respects, the Agreement dated September 4, 1990, the First Amendment dated April 1, 1997, and the Second Amendment between CITY and CONTRACTOR are ratified and reaffirmed and are in full force and effect.

CITY OF TORRANCE,
a municipal corporation

Outdoor Systems Advertising, Inc.,
a Delaware corporation

Frank Scotto, Mayor

Dennis Kuhl
General Manager

ATTEST:

Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: _____
Heather K. Whitham,
Deputy City Attorney

SECOND AMENDMENT TO AGREEMENT (C90-099)

This Second Amendment to Agreement is made and entered into as of _____, 1999 ("Effective Date"), by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and Outdoor Systems Advertising, Inc., a Delaware corporation ("CONTRACTOR").

RECITALS:

- A. CITY and Gannet Outdoor, Co. Inc. ("Gannet"), entered into an Agreement on September 4, 1990, whereby Gannet agreed to maintain existing bus shelters located within the CITY. CITY agreed to provide CONTRACTOR with the right to construct, maintain, insure and advertise on additional shelters on city-owned property.
- B. The term of the Agreement is for ten years.
- C. On April 1, 1997, CITY consented to the assignment from Gannet to CONTRACTOR and CONTRACTOR accepted the assignment .
- D. CITY and CONTRACTOR wish to extend the Agreement for an additional seven years, expiring September 5, 2007.
- E. CITY desires to replace forty-seven existing bus shelters with new bus shelters and retain ownership of the new bus shelters. CONTRACTOR has agreed to provide the new bus shelters.
- F. In addition to the forty-seven replacement shelters, CONTRACTOR will install, at CONTRACTOR's sole cost and expense, up to fifty additional shelters at locations mutually agreed upon by CONTRACTOR and CITY.

AGREEMENT:

- 1. Paragraph 2.A is amended to read in its entirety as follows:
 - "2. FEE PAYABLE TO CITY
 - A. CITY will be compensated as follows:
 - (1) In consideration of the right granted hereby, CONTRACTOR agrees to pay CITY fourteen percent of the gross advertising revenues received by CONTRACTOR, less agency commissions not to exceed fifteen percent, but in no instance will the payment be less than fifty dollars per month per shelter.
 - (2) Commencing on July 1, 1993, and continuing for each month thereafter for the life of the contract, CONTRACTOR agrees to pay to CITY fifteen percent of the gross advertising revenues received by CONTRACTOR, less

agency commissions not to exceed fifteen percent, but in no instance will the payment be less than eighty-five dollars per month per shelter.

- (3) Commencing the first full month after the Effective Date of this Second Amendment, CONTRACTOR will pay CITY twenty percent of the gross advertising revenues received by CONTRACTOR, less agency commissions not to exceed fifteen percent, but in no instance will the payment be less than the following compensation schedule:

YEAR	MONTHLY MINIMUM GUARANTEE PER SHELTER	ANNUAL MINIMUM GUARANTEE	PERCENTAGE OF REVENUE
1	\$110	\$62,040	20%
2	\$115	\$64,860	20%
3	\$120	\$67,680	20%
4	\$125	\$70,500	20%
5	\$130	\$73,320	20%
6	\$135	\$76,140	20%
7	\$140	\$78,960	20%
8	\$140	\$78,960	20%
9	\$140	\$78,960	20%

- (4) The Annual Minimum Guarantee is based on 47 installed shelters and shall increase accordingly as new shelters are installed.

2. Paragraph 3.B, entitled, Scope of Service, is amended to read in its entirety as follows:

"B. Scope of Service. CONTRACTOR will do the following:

- (1) CONTRACTOR will replace and maintain the existing 47 bus shelters with new bus shelters by September 1, 2000, at CONTRACTOR's sole cost and expense.
- (2) CONTRACTOR will construct and maintain at CONTRACTOR's sole cost and expense, as requested by CITY, up to fifteen (15) new shelters per year, for a maximum of fifty additional shelters, at locations selected per the instructions of Paragraph 4, entitled Site Selection. CONTRACTOR will follow the DESIGN AND CONSTRUCTION SPECIFICATIONS set forth in Exhibit A. A listing of 41 proposed sites is attached to this Amendment as Exhibit 1.
- (3) CONTRACTOR will provide labor for parts and replacement and emergency maintenance for the eight bus shelters at the Del Amo Fashion Center at 3031 Fashion Way, Torrance, CA.

CONTRACTOR will provide periodic inspections and notify CITY of any problems. CONTRACTOR will perform the needed repairs upon request from CITY. CITY will provide and cover all material costs associated with the repair."

3. Paragraph 4.B is deleted in its entirety and a new Paragraph 4.B is added to read as follows:

"4.B. In the event CITY and CONTRACTOR cannot agree on the location of all sites, CONTRACTOR agrees that the CITY may choose at least 25 of the shelter sites based on rider and transit service requirements, regardless of suitability for advertising."

4. Paragraph 7, entitled Insurance, is deleted in its entirety and a new Paragraph 7 is added to read as follows:

"7. Insurance.

A. CONTRACTOR and its subcontractors must maintain at its sole expense the following insurance, which will be full coverage not subject to self insurance provisions:

(1) Automobile Liability, including owned, non-owned and hired vehicles, with at least the following limits of liability:

(a) Primary Bodily Injury with limits of at least \$250,000 per person, \$500,000 per occurrence; and

(b) Primary Property Damage of at least \$100,000 per occurrence; or

(c) Combined single limits of \$500,000 per occurrence.

(2) General Liability including coverage for premises, products and completed operations, independent contractors/vendors, personal injury and contractual obligations with combined single limits of coverage of at least \$1,000,000 per occurrence.

(3) Workers' Compensation with limits as required by the State of California and Employer's Liability with limits of at least \$500,000.

B. The insurance provided by CONTRACTOR will be primary and non-contributory.

C. CITY, the City Council and each member thereof, members of boards and commissions, every officer, agent, official, employee

and volunteer must be named as additional insured under the automobile and general liability policies.

- RM
- D. CONTRACTOR must provide certificates of insurance and/or endorsements indicating appropriate coverage, to the City Clerk of the City of Torrance before the commencement of work.
 - E. Each insurance policy required by this Paragraph must contain a provision that no termination, cancellation or change of coverage can be made without thirty days notice to CITY.
 - F. Insurance required by this Agreement will be satisfactory only if 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 waived by the Risk Manager of CITY ("Risk Manager") due to unique circumstances. In the event the Risk Manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to CITY, the CONTRACTOR agrees that the minimum limits of any insurance policies or performance bonds required by this Agreement may be changed accordingly upon receipt of written notice from the Risk Manager; provided that CONTRACTOR will have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of CITY within 10 days of receipt of notice from the Risk Manager."

5. Paragraph 8, entitled Hold Harmless is deleted and a new Paragraph 8, entitled Indemnification, is added to read in its entirety as follows is added:

"8. Indemnification.

RM

CONTRACTOR 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 CONTRACTOR, its officers, employees, agents, subcontractors or vendors. It is further agreed, CONTRACTOR'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

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officers, employees or agents. Payment by CITY is not a condition precedent to enforcement of this indemnity. In the event of any dispute between CONTRACTOR and CITY, as to whether liability arises from the sole negligence of the CITY or its officers, employees, agents, subcontractors or vendors, CONTRACTOR 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. CONTRACTOR 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."

- 6. Paragraph 12, entitled Representatives and Notices is amended to read in its entirety as follows:

"12. Representatives and Notices.

The City Manager or his designee is designated as the representative of CITY, authorized to act in its behalf with respect to the services specified in this Agreement.

Tim Fox is designated as the representative of CONTRACTOR, authorized to act in its behalf with respect to the services specified in this Agreement. Tim Fox may enter into any subordinate agreements with CITY pursuant to this Agreement on behalf of CONTRACTOR, and may accept service of process.

Notices and written communications sent by one party to the other will be personally delivered or sent by U.S. mail, postage prepaid, to the following addresses:

CITY: City Clerk
City of Torrance
3031 Torrance Blvd.
Torrance, CA 90509-2970

CONTRACTOR: *CRS* Outdoor ~~Systems, Inc.~~
1731 Workman Street
Los Angeles, CA 90031"

- 7. Paragraph 15, entitled Term, is amended to read in its entirety as follows:

"15. Term.

This Agreement will terminate on September 5, 2007. At the expiration of the term, CITY will retain full ownership of all forty-seven replacement shelters. At the expiration of the term, CITY will be able to exercise an option to purchase all new shelters that were installed in accordance with this Agreement. If CITY chooses to exercise this option, CITY will pay CONTRACTOR the fair market value of those shelters. Fair market value shall be computed based on the

remaining shelter value depreciated on a straight-line 10-year schedule. The schedule shall start with the date of installation. The starting value of these new shelters will be \$9,500.”

8. A new Paragraph 22, entitled Conflict of Interest, is added to read as follows:

“22. 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.”

9. A new Paragraph 23, entitled Business License, is added to read as follows:

“23. Business License.

CONTRACTOR must obtain a City business license prior to the start of work under this Agreement, unless CONTRACTOR is qualified for an exemption.”

10. A new Paragraph 24, entitled CONTRACTOR’s Authority to Execute, is added to read as follows:

“24. CONTRACTOR’s Authority to Execute.

The person(s) executing this Agreement on behalf of the CONTRACTOR warrant that (i) the CONTRACTOR is duly organized and existing; (ii) they are duly authorized to execute this Agreement on behalf of the CONTRACTOR; (iii) by so executing this Agreement, the CONTRACTOR 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 CONTRACTOR is bound.”

11. Exhibit A, entitled, TRANSIT SHELTER PROGRAM DESIGN AND CONSTRUCTION SPECIFICATIONS, is amended to add the following:

“7. HAWTHORNE BOULEVARD CORRIDOR
CONTRACTOR and CITY will work together to design revised specifications and architectural drawings for the design of shelters located in the Hawthorne Boulevard Corridor. All new designs will be reviewed by the CITY’s Building and Safety Department for electrical wiring and appurtenances, structural integrity and soundness of design.”

11. In all other respects, the Agreement dated September 4, 1990, and the First Amendment dated April 1, 1997, between CITY and CONTRACTOR is ratified and reaffirmed and is in full force and effect.

CITY OF TORRANCE,
a municipal corporation

Outdoor Systems Advertising, Inc.,
a Delaware corporation

Dee Hardison, Mayor

Dennis Kuhl, General Manager

ATTEST:

Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: _____
Heather K. Whitham,
Deputy City Attorney

Attachment: Exhibit 1

EXHIBIT 1
PROPOSED BUS SHELTER SITE LOCATIONS
41 SITES

Hawthorne Boulevard &
177th St. NE corner
182nd St. SE
186th St. NE
190th St. SE
Halison St. SW
Spencer St. SW
Emerald St. NW & SW
Carson ST. SW & NE
Del Amo Center Way NE
Sepulveda Blvd. NE
230th St. NE
Lomita Blvd. SW
P.C.H. SW
Newton St. NE & SW
Rolling Hills Road SW

Pacific Coast Highway &
Crenshaw Blvd. NW & SE corners
Hawthorne Blvd. SW & SE
Calle Mayor NW & SE

Torrance Boulevard &
Henrietta St. NW corner
Bishop Montgomery HS stop
Palos Verdes Blvd. NW corner
Anza Ave. NW
Fern Ave.

190th Street &
Mobil Way SE corner
Crenshaw SE
Allied Signal N & S sides
Van Ness Ave SE corner
Gramercy SE & NW corners

Artesia Boulevard &
Western SW corner
Crenshaw NE & SW corners
Yukon NW corner

Prairie Avenue &
Artesia NW corner

City Council
April 1, 1997

7c. **ASSIGNMENT OF GANNETT TRANSIT BUS SHELTER CONTRACT**

Recommendation

The Fleet Services Director recommends that the City Council approve the sale of Gannett Outdoor Company of Southern California to Outdoor Systems Advertising, and a new bus shelter contract between the City and Outdoor Systems Advertising be approved and the Mayor and City Clerk be authorized to execute and to attest to it on behalf of the City.

MOTION: Councilmember O'Donnell moved for the approval of Consent Calendar Item Nos. 7c, 7e and 7f. The motion was seconded by Councilmember Walker and passed by unanimous roll call vote.

February 5, 1999

Council Meeting
February 23, 1999

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

C90-099

Members of the City Council

SUBJECT: Amendment to Bus Shelter Agreement

ABSTRACT

The Transit General Manager recommends that the City Council authorize the Mayor to execute and the City Clerk attest to the attached Amendment to Agreement C90-099 for the installation and maintenance of bus shelters with Outdoor Systems Advertising, Inc. extending the agreement for an additional seven years past its current termination date of September 4, 2000.

BACKGROUND

On April 1, 1997, Council approved an assignment of an Agreement to install and maintain bus shelters between Gannett Outdoor Advertising and Outdoor Systems Advertising (OSA). Many of the City shelters date back to the mid-Eighties and do not meet the same level of structural integrity as those that OSA is now installing in Southern California. In addition, most of the shelters have been etched inside and out with graffiti. Over the last few months, OSA, the Transit Division and the City Planning Department have discussed plans to replace these shelters and to install new custom shelters in the City as part of the Hawthorne Boulevard Specific Plan. As a result of these discussions, City staff drafted a proposed amendment to the agreement.

ANALYSIS

Staff is proposing an agreement term extension without requesting proposals from other vendors for the following reasons. There are really only one or two other companies that are actively installing bus shelters in L.A. County. OSA is by far the biggest. The first Amendment to this Agreement provides the City with the ability to offer a bus shelter site to any interested company after OSA has been given the right of first refusal. Therefore, the City always retains maximum contract flexibility.

In the relatively short time that OSA has had control of the bus shelter Agreement, Staff has found it to be a reliable company that has fulfilled service requests in a timely manner. It replaced the back panels in the shelter in front of

City Hall with only a day's notice on two separate occasions. Although the proposed amendment extends the agreement term by seven years, OSA will be making a substantial new investment in the City. Its agreement to replace the existing 47 shelters in the City represents a cash outlay of close to \$500,000. In addition, staff found through a telephone survey that the Amendment's negotiated monthly revenue guarantee is close to or higher than most of the Southern California cities that OSA currently maintains contracts with.

As specified in the attached Amendment, in exchange for an Agreement extension to September 5, 2007, OSA has agreed to the following:

- 1) Replacement of the existing 47 shelters
- 2) Installation of up to fifty new shelters
- 3) A revised fee structure that escalates the monthly minimum guarantee per shelter on advertising revenues due the City for the next five years and immediately increases the guarantee by 29%
- 4) Work with the Planning Department to create a custom shelter that will be installed along Hawthorne Boulevard.

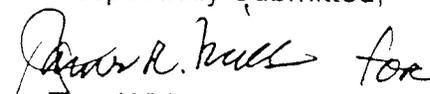
Exhibit 1 of the Amendment lists 41 proposed bus shelter sites. This list is meant only as a starting point since these sites will require further analysis for suitability, space requirements and public notification. The Amendment specifies that OSA will install 15 new shelters per year, an aggressive schedule. In any event, the Hawthorne shelters will be the first new shelters installed. Torrance will be able to select 25 locations based solely rider and transit service requirements, regardless of their potential for generating advertising revenue.

Since the Agreement dates from 1990, new language has been added which will make the Agreement more closely conform to the most recent version of the City's services contract.

RECOMMENDATION

The Transit General Manager recommends that the City Council authorize the Mayor to execute and the City Clerk attest to the attached Amendment to Agreement C90-099 for the installation and maintenance of bus shelters with Outdoor Systems Advertising, Inc. extending the agreement for an additional seven years past its current termination date of September 4, 2000.

Respectfully Submitted,


Tom Whittle
Transit General Manager

CONCUR:


LeRoy J. Jackson
City Manager

Attachments: 1) Second Amendment to Agreement
2) Council Minutes 4/1/97

FIRST AMENDMENT TO CITY OF TORRANCE AGREEMENT FOR BUS SHELTERS
AND CONSENT TO ASSIGNMENT

THIS FIRST AMENDMENT TO CITY OF TORRANCE AGREEMENT FOR BUS SHELTERS AND CONSENT TO ASSIGNMENT ("First Amendment") is made and entered into this _____ day of _____, 1997 by and between the City of Torrance, a municipal corporation ("CITY"), and Outdoor Systems Advertising, an Arizona corporation ("OUTDOOR").

THE PARTIES AGREE AS FOLLOWS:

1. The purpose of this First Amendment is for OUTDOOR to assume the duties and responsibilities, and to receive the benefits of, Gannett Outdoor Advertising, in and to that certain City of Torrance Agreement for Bus Shelters dated September 4, 1990, and numbered C-90-099 between the CITY and Gannett Outdoor Advertising (the "Agreement"). A copy of the Agreement is attached and incorporated by this reference.
2. The CITY approves the sale of Gannett Outdoor Advertising to OUTDOOR, and further agrees to the assignment of the Agreement from Gannett Outdoor Advertising to OUTDOOR.
3. OUTDOOR agrees to accept the assignment of the Agreement.
4. Paragraph 1 of the Agreement is amended to delete the following sentence: "CITY further grants to CONTRACTOR, the right to construct, erect, install, repair, maintain, and insure shelters at up to 10 designated bus stop locations."
5. Paragraph 3 of the Agreement is amended to delete subparagraphs B, C and E.
6. OUTDOOR is granted a continuing first right of refusal during the term of this Agreement to install and operate any additional bus shelters proposed by the CITY to be installed at locations designated by the CITY. OUTDOOR must exercise its first right of refusal in writing within thirty calendar days of OUTDOOR's receipt of CITY's proposal to install additional bus shelters. In the event OUTDOOR fails to exercise its first right of refusal, the CITY may contract with other bus shelter providers to install and operate the proposed shelters.

7. Paragraph 12 of the Agreement is amended to reflect the representative of OUTDOOR and the proper address for delivering notices to OUTDOOR:

Representative: _____

Notice Address: _____

8. OUTDOOR must provide satisfactory evidence of all insurance required by the Agreement to the CITY's Risk Manager within ten days of the effective date of this First Amendment.

9. OUTDOOR represents that it is an Arizona corporation, in good standing and authorized to do business in California, that each individual executing this First Amendment on behalf of OUTDOOR is duly authorized to execute and deliver this First Amendment on behalf of OUTDOOR in accordance with a duly adopted resolution of OUTDOOR's Board of Directors or in accordance with the bylaws of the corporation, and that this First Amendment is binding upon OUTDOOR.

10. Except as otherwise provided in this First Amendment, all terms and conditions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the first date written above.

CITY OF TORRANCE,
a municipal corporation

OUTDOOR SYSTEMS,
an Arizona corporation

Mayor

By:

Its:

ATTEST:

Sue Herbers, City Clerk

APPROVED AS TO FORM:
John L. Fellows III
City Attorney

By _____

March 7, 1997

COUNCIL MEETING

April 1, 1997

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

*Ref: C90-099
- First Amendment*

Members of the City Council:

SUBJECT: Assignment of Gannett Transit Bus Shelter Contract

ABSTRACT

The Fleet Services Director recommends that Council approve the sale of Gannett Outdoor Company of Southern California to Outdoor Systems Advertising, and a new bus shelter contract between the City and Outdoor Systems Advertising be approved and the Mayor and City Clerk be authorized to execute and to attest to it on behalf of the City.

BACKGROUND

Gannett has contracted with the City since 1990 to install bus passenger waiting shelters at bus stops (contract C90-099). Gannett installs and maintains the shelters at no charge to the City in exchange for the exclusive right to sell advertising space on the shelter. The City receives from Gannett 15% of the advertising sales, less agency commissions. Annually this fee amounts to approximately \$50,000.

Recently, Gannett notified staff that it had been acquired by a Phoenix, Arizona based firm, Outdoor Systems Advertising. Outdoor Systems is requesting the City's approval of both the sale and the assignment to them of the Gannett contract with the City.

ANALYSIS

Transit staff received a letter from Gannett confirming the sale of the Company, after the fact. Although their contract requires them to advise the City before any sale and request City approval, they did not do so in this case. Staff has met with Outdoor representatives (previous employees of Gannett), and we are reasonably confident that the firm will fully comply with all terms of the contract. This contract has a ten year term, and will expire on September 3, 2000. At that time, the City will assume ownership of the 46 shelters presently installed and can negotiate a new agreement.

Staff is taking the opportunity that this contract assignment affords us to amend Section 1 page 2 of the contract. Whereas, Gannett was given an exclusive right to install an additional 10 shelters, Outdoor Systems will not receive this consideration.

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Outdoor Systems will have the right of first refusal to install shelters at sites requested by the City. However, if they decline, the City is free to contract with other vendors to install and maintain the new shelters. Future shelter installations will be submitted to Council for its input and approval.

If Council is willing to approve the Gannett sale, and assumption of the contract by Outdoor Systems, the attached agreement will be sent to Outdoor Systems for their execution. The new agreement confirms the purchase of the Gannett assets and Outdoor Systems' promise to honor the contract for bus shelter installation, maintenance and advertising, as amended.

RECOMMENDATION

The Fleet Services Director recommends that Council approve the sale of Gannett Outdoor Company of Southern California to Outdoor Systems Advertising, and a new bus shelter contract between the City and Outdoor Systems Advertising be approved and the Mayor and City Clerk be authorized to execute and to attest to it on behalf of the City.

Respectfully submitted,

RALPH J. ISHMAEL
Fleet Services Director

By Robert Meyers
Robert Meyers
Administrative Analyst

RJI/RM/db

CONCUR:

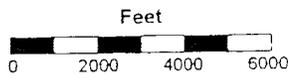
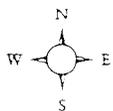
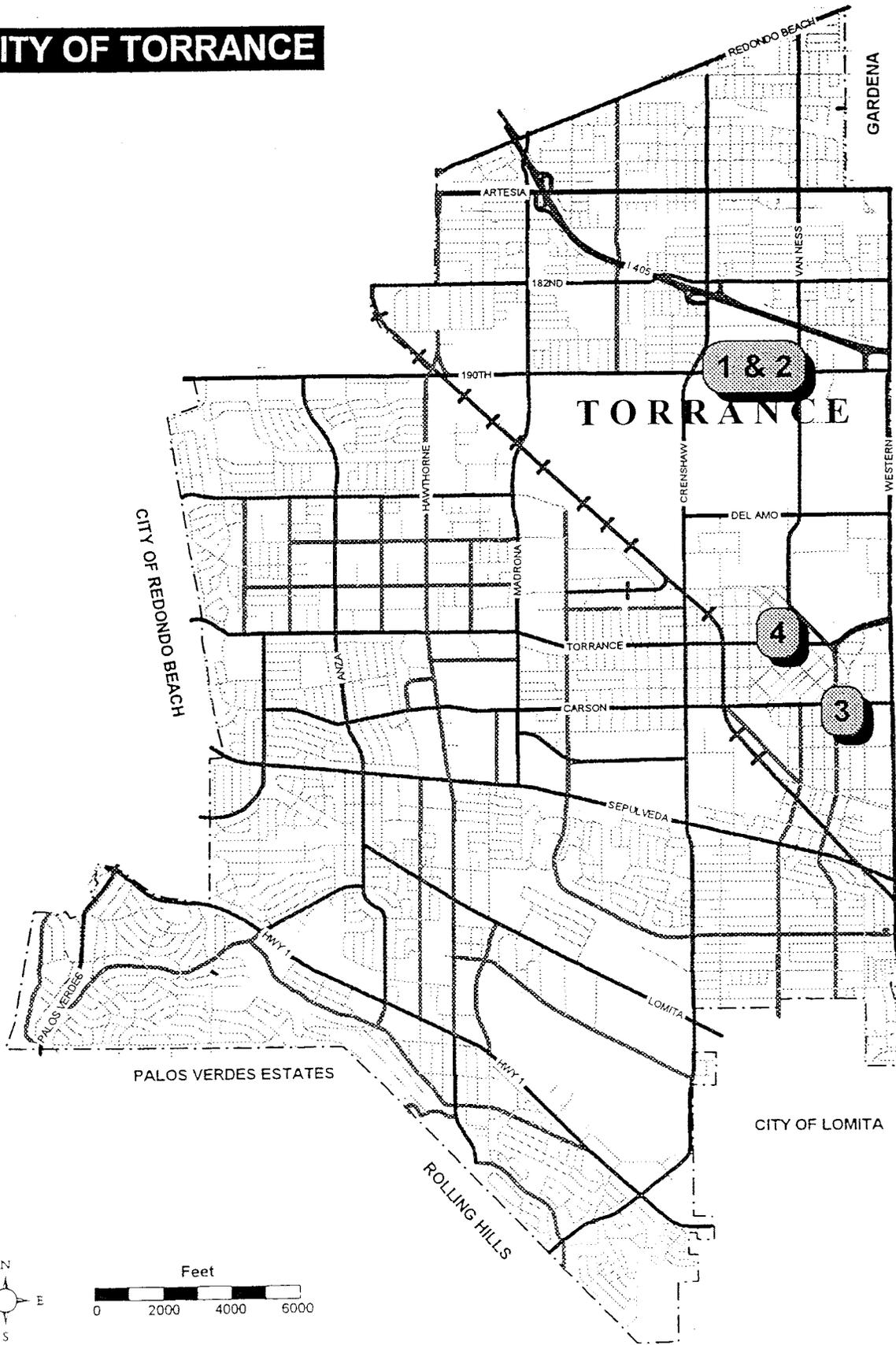
Tom Whittle
Tom Whittle
General Mgr., Torrance Transit

Ralph J. Ishmael
Ralph J. Ishmael
Fleet Services Director

LeRoy J. Jackson
LeRoy J. Jackson
City Manager

- Attachments: 1) New Agreement
2) Agreement C90-099 (Exhibits not attached)

CITY OF TORRANCE



CITY OF TORRANCE

AGREEMENT FOR BUS SHELTERS

THIS AGREEMENT, made and entered into this 4th day of September, 1990, by and between the City of Torrance, a charter city in the State of California hereinafter called CITY, and Gannett Outdoor Co., Inc. of Southern California doing business as Gannett Transit, hereinafter called "CONTRACTOR".

RECITALS

A. Target Media has installed thirty-seven (37) bus shelters, hereinafter referred to as "shelters" in the CITY pursuant to the covenants and conditions of the agreements dating from June 23, 1983 and August 3, 1987.

B. Target Media desires to transfer its interest in these agreements to CONTRACTOR.

C. CONTRACTOR is willing to assume this interest pursuant to a new agreement.

D. CITY desires to see the existing shelters maintained without incurring costs.

E. CITY is willing to provide CONTRACTOR with the right to construct, erect, install, repair, maintain, insure and advertise on additional shelters on city-owned property under the covenants and conditions hereinafter set forth.

F. CONTRACTOR represents that it is an Arizona corporation, authorized to do business in California and represents and warrants that each individual executing this Agreement is duly authorized to execute and deliver this Agreement on behalf of said corporation in accordance with a duly adopted resolution of the Board of Directors of said corporation or in accordance with the bylaws of said corporation, and that this Agreement is binding upon said corporation in accordance with its covenants and conditions.

660-063

QUINTUPLICATE ORIGINAL

NOW, THEREFORE, in consideration of the foregoing, recital and covenants and Agreements of each of the parties herein set forth, the parties hereto agree as follows:

1. Grant of Right by CITY

CITY hereby grants to CONTRACTOR on the covenants and condition hereinafter described, the right to assume all interests in the thirty-seven (37) shelters previously owned by Target Media.

CITY further grants to CONTRACTOR, the right to construct, erect, install, repair, maintain, and insure shelters at up to 10 designated bus stop locations. The design of the said shelters shall be as shown in Exhibit "A" - "DESIGN AND CONSTRUCTION SPECIFICATIONS". A list of twenty possible locations is presented in Exhibit "B", both exhibits are attached hereto and are incorporated herein by this reference.

2. FEE PAYABLE TO CITY

A. In consideration of the right granted hereby, CONTRACTOR agrees to pay to CITY fourteen (14) percent of the gross advertising revenues received by CONTRACTOR, less agency commissions not to exceed fifteen (15) percent, but in no instance shall said payment be less than fifty dollars (\$50) per month per shelter. Commencing on July 1, 1993, and continuing for each month thereafter for the life of the contract, CONTRACTOR agrees to pay to CITY fifteen (15) percent of the gross advertising revenues received by the CONTRACTOR, less agency commissions not to exceed fifteen (15) percent, but in no instance shall said payment be less than eighty-five dollars (\$85) per month per shelter.

B. CONTRACTOR shall compute all fees due the CITY on a monthly basis. Payment of fees shall commence three months after the date of execution of this Agreement, and will continue on a quarterly basis thereafter to compensate CITY regarding all shelters installed to date of payment, and to compensate CITY for all shelter revenues due CITY for the preceding three (3) months.

C. All payments from CONTRACTOR to CITY shall be supported by a Statement of Account showing all shelter locations, revenues received, and the advertiser at each location.

D. CONTRACTOR shall allow inspection of its books and records by CITY officials as authorized by CITY'S Manager or Director of Finance at CONTRACTOR'S office during reasonable business hours to determine revenues due to CITY. Such records shall be maintained in California.

E. Quarterly reports (unaudited) concerning gross advertising receipts derived from shelters within CITY shall be provided to the Director of Transportation of CITY within thirty (30) days after the conclusion of each calendar quarter.

3. CONTRACTOR'S Services.

CONTRACTOR agrees, at its own cost and expense, to perform as follows:

A. CONTRACTOR shall prepare a list of all deficiencies at each existing shelter location. CONTRACTOR shall remedy all deficiencies within ninety (90) days of the execution date of this Agreement

B. Scope of Service. CONTRACTOR shall construct and maintain at no cost to CITY up to 10 additional shelters in the CITY and upon CITY street right of way. Exhibit "B" lists twenty possible locations for installation. Additional shelters beyond the initial contract quota may be added in increments as approved by CITY and in accordance with the terms of this Agreement.

C. Performance Schedules. The following performance schedules shall be adhered to by the CONTRACTOR. Any deviation from these schedules, except on account of those events specified in subparagraph D or without written CITY approval, shall be considered a breach of this contract, and the CONTRACTOR shall be liable to the CITY for liquidated damages.

(1) Work on the construction or installation of the first bus shelter shall begin not later than thirty (30) working days after the necessary permits have been issued for the first selected site. Permit applications must be submitted to the proper agencies within five (5) working days after notification by CITY. Failure to perform as required will result in a liquidated damage claim by the CITY in the sum of Fifty Dollars (\$50.00) for each delinquent day.

(2) Installation of an individual shelter, including all shelter amenities, shall be completed within five (5) working days after work has commenced. Failure to perform as required will result in a liquidated damage claim by the CITY in the sum of Fifty Dollars (\$50.00) for each delinquent day.

(3) Construction or installation of the ten (10) shelters shall be completed within six (6) months of the date that work commenced on the first shelter. Failure to perform as required will result in a liquidated damage claim by the CITY in the sum of Seventy-five Dollars (\$75.00) for each delinquent day.

D. Force Majeure. The time within which the CONTRACTOR is obligated to commence and to complete construction of the shelters or to cure any default on the part of the CONTRACTOR shall be extended for a period of time equal in duration to, and performance in the meantime shall be excused on account of and for and during the period of any delay caused by strikes, threats of strikes, lockouts, war, threats of war, insurrection, invasion, acts of God, calamities, violent action of the elements, fire, action or regulation of any governmental agency, law or ordinance, or other things beyond the reasonable control of the CONTRACTOR.

E. Design of Shelters. Except hereinafter provided, said shelters shall be so designed and constructed as to conform to the shelters already in place in the CITY. Each shelter shall have displayed in a conspicuous place, the name of CONTRACTOR and an encroachment permit number, which shall be given to CONTRACTOR by CITY. Any design changes shall be submitted to CITY for CITY'S

written approval at least thirty (30) days prior to installation. CONTRACTOR shall obtain written approval of CITY of all design changes before installation.

F. Permit Requirements. CONTRACTOR shall obtain a separate encroachment permit from CITY for each bus shelter, and each such permit shall be valid only for the particular location as specified therein. Each application for an encroachment permit to install a bus shelter must be accompanied by the following:

(1) A plan showing the proposed location of each bus shelter and such other information as the Director of Transportation or City Engineer may require.

(2) Detailed plans and specifications of the shelter.

G. Permit Fee. CONTRACTOR shall pay all fees, costs, and permit charges regularly assessed by CITY, and further agrees that the shelters shall be constructed in conformity with the Uniform Building Code, latest edition, as adopted by the City of Torrance. City Permit fees shall not exceed Two Hundred and Fifty dollars (\$250.00) until July 1, 1993.

H. Repair, Maintenance, and Replacement. CONTRACTOR shall maintain, repair, clean, and service the shelters, keeping them in a safe, clean, attractive and sanitary condition. CONTRACTOR shall be at liberty to enter upon and into shelters at any reasonable time with personnel and all necessary equipment and materials to provide for the satisfactory maintenance of the shelter. CONTRACTOR shall make routine maintenance/clean-up calls on each shelter at least twice a week. Each shelter shall be steam cleaned as needed, but not less often, than twice each year. Each shelter shall be supplied with a trash receptacle. CONTRACTOR shall repair or replace within three (3) working days any damage, vandalism or graffiti found at the time of a routine maintenance call or upon notification by the CITY. If shelter damage or vandalism is such that the public could be exposed to a dangerous situation while in or near the shelter,

CONTRACTOR shall repair, or if need be, remove the entire shelter within twenty-four (24) hours of notification. If agreed upon by CITY and CONTRACTOR, the shelter shall be replaced at the same location within five (5) working days.

CONTRACTOR specifies that ~~Gary Duckworth~~ will be available during normal business hours for consultation with the CITY on any matter relating to the shelters.

CONTRACTOR shall furnish to the CITY a written monthly summary report of its maintenance operations. All maintenance work and corrective actions shall be performed at the expense of CONTRACTOR.

I. Electricity. CONTRACTOR shall pay all sums that may become due for electrical energy supplied to the shelters and shall indemnify CITY against any and all such costs.

J. Advertising. CONTRACTOR agrees that it shall utilize the shelter display panels, and only the shelter display panels for the placement of advertising material and such placement shall be in accordance with the following stipulations:

(1) CONTRACTOR shall not place advertisements promoting political candidates nor those which advocate a position on any ballot issue.

(2) CONTRACTOR shall not place advertisements for products or services which compete with any primary products or services offered by any businesses within a one-block radius of the shelter.

(3) CONTRACTOR shall not place advertisements which promote competing transit services.

(4) CONTRACTOR shall upon request, transmit to the CITY Manager or his designee color copies of all ads proposed to be placed in shelters for preplacement approval.

(5) Should the CITY, in its sole discretion, determine any advertising on any shelter to be improper, offensive or a display that is likely to interfere with, mislead, or distract traffic or conflict with any traffic control system, the CONTRACTOR shall remove all such material within twenty-four (24) hours after the CITY serves a removal notice upon CONTRACTOR.

(6) No more than 25% of the total number of shelters installed shall display alcoholic beverage advertising.

(7) Contractor shall agree that not more than two (2) times per year, for not longer than ten (10) days each time, the CITY may require contractor to display a public service announcement in lieu of advertising in selected shelters. CONTRACTOR shall be given sixty (60) days notice of such a requirement by CITY.

4. Site Selection.

A. Sites shall be chosen by the CITY in consultation with CONTRACTOR. The CITY shall supply CONTRACTOR with a list of preferred sites. Any proposed shelter site shall be subject to the following screening process:

✓(1) All sites are subject to review and approval by the CITY Council based on safety of bus riders, traffic and pedestrians.

✓(2) Not less than ten (10) days prior to the review of each shelter site, as provided in (1) above, written notice shall be sent by CITY to each property owner as shown on the latest assessor's roll, within a three hundred foot (300) radius of the proposed site. Said notice shall advise the property owner of the proposed placement of the shelter and the date the CITY Council shall consider the placement of the said shelter and shall provide the name and telephone number of an appropriate CITY staff member, or members who can provide additional information or record comments or protests.

(3) In the event the proposed site is adjacent to a commercial user, the specific approval of the commercial user shall be required.

(4) All sites proposed which are adjacent to residential uses shall be subject to review by the Torrance Environmental Quality and Energy Conservation Commission.

(5) No shelter site shall be chosen which would result in a shelter being closer than ten (10) feet to a driveway.

(6) No shelter site shall be chosen which will result in a shelter being located over a storm drain unless approved by CITY Engineer.

(7) No shelter site shall be chosen which will result in a shelter being placed in such a position that less than four (4) feet of contiguous sidewalk remains useable.

(8) Every single shelter shall be wheelchair accessible.

B. In the event the CITY and CONTRACTOR cannot agree on the location of all sites, CONTRACTOR agrees that the CITY may choose at least five (5) of the shelter sites based on rider requirements, regardless of suitability for advertising.

5. Shelter Relocation or Removal.

A. The CITY shall have the right to require CONTRACTOR to relocate any shelter for the convenience of pedestrians and bus patrons or because of a change in bus stop location or street widening.

B. The CITY may permit CONTRACTOR, after receipt of thirty (30) days notice of intent, to remove or relocate a shelter if said shelter is unmaintainable due to "chronic vandalism", or if federal, state, municipal or other proper authorities, should hereafter establish any rules, regulations or taxations which shall so restrict location, construction, maintenance or operation of the shelters so as to substantially diminish the value of said shelters for advertising purposes.

C. "Chronic Vandalism" shall be defined as damages inflicted to an individual shelter during any six (6) month period which require cumulative expenditures for replacement and repair that exceed the original cost of construction and installation of the shelter.

D. In the event CITY fails to receive notice of renewal of any necessary permit, the Comprehensive General Liability insurance, or any of them, on or before twenty (20) days before the expiration date thereof, or in the event the Comprehensive General Liability insurance is cancelled and no evidence of equal coverage is filed with CITY on or before twenty (20) days before the expiration date thereof, or in the event the Comprehensive General Liability insurance is cancelled and no evidence of equal coverage is filed

with CITY on or before twenty (20) days prior to the expiration date of its coverage, or upon termination of this Agreement for any reason, CONTRACTOR agrees to immediately remove all of its shelters and if it fails to do so within thirty (30) days after notice to do so is mailed by CITY, CITY shall have the right to remove said shelters and CONTRACTOR agrees to pay to CITY, CITY'S costs for such removal and site restoration, or in the alternative, CITY may elect to take each shelter, or any of them at cost and assume ownership and operation, in which event, CONTRACTOR shall execute any release or document of title as CITY may require.

E. Upon removal of any or all shelters erected by CONTRACTOR hereunder, all material shall be removed from the site, including, but not by way of limitation all wires. The site shall be restored to the condition as it existed prior to installation of the shelter, including complete restoration of any sidewalk upon which said shelter was located.

6. Independent CONTRACTOR.

CONTRACTOR is an independent contractor and not an employee of CITY, and all construction and maintenance personnel shall be employees of CONTRACTOR and not employees of CITY. CONTRACTOR shall pay all salaries and wages, workman's compensation, employer's social security taxes, unemployment insurance, and similar taxes relating to employees and shall be responsible for all applicable withholding taxes.

7. Insurance.

A. CONTRACTOR shall obtain at its sole cost and file with CITY'S Clerk of the Council, prior to exercising any right or performing any obligation pursuant to this Agreement, and maintain for the period covered by this Agreement, a policy or policies of liability insurance, satisfactory to the CITY Attorney, naming CITY, the CITY Council, its officers, agents and employees, as insured or additional insured, which provides coverage not less than that provided in the form of a Comprehensive General Liability insurance policy against

liability for any and all claims and suits for damages or injuries to or death of persons or damage to property resulting from or arising out of the performance of this agreement by CONTRACTOR, its officers, agents, or employees. Said policy or policies of insurance shall provide coverage for both bodily injury or death and property damage in not less than the following minimum amounts: One Million Dollars (\$1,000,000.00) combined single limit; bodily injury and property damage. Said policy or policies shall also contain a provision that no termination, cancellation or change of coverage or of insured or additional insured shall be effective until after thirty (30) days notice thereof has been given in writing to CITY, and such insurance shall be considered primary coverage. CONTRACTOR shall give to CITY prompt and timely notice of claim made or suit instituted arising out of CONTRACTOR'S operations hereunder. CONTRACTOR shall procure and maintain at its own cost and expense, any additional kinds and amounts of insurance which, in its own judgment, may be necessary for its proper protection in the prosecution of the work.

8. Hold Harmless.

A. CONTRACTOR shall defend, indemnify and save harmless CITY, City Council, its officers and employees, from and against any and all damages to property or injuries to or death of any person or persons, including property and employees or agents of CITY, and shall defend, indemnify and save harmless CITY, its officers and employees, for any and all claims, demands, suits, actions or proceedings of any kind or nature, including, but not by way of limitation, workers' compensation claims, resulting from or arising out of the negligent acts, errors or omissions of CONTRACTOR, its employees or subcontractors.

B. CONTRACTOR shall defend indemnify and save harmless CITY, City Council, its officers and employees, from and against any and all damages to property or injuries to or death of any person or persons, including property and employees or agents of CITY, and

shall defend, indemnify and save harmless CITY, its officers and employees, from and against any and all claims demands, suits, actions or proceedings therefore, resulting from or arising out of the intentional or malicious acts of CONTRACTOR, its employees or subcontractors.

9. Equal Opportunity.

A. By signing this Agreement, CONTRACTOR certifies that it does not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, marital status, national origin, ancestry, physical handicap or medical condition, except as provided in Labor Code Section 1420, in connection with employment upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. Such affirmative action shall be in accordance with the affirmative action guidelines adopted by CITY. CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by CITY setting forth the provisions of this nondiscrimination clause.

B. CONTRACTOR shall, in all solicitations or advertisements for employees placed by or on behalf of CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, marital status, national origin of ancestry, or physical handicap.

C. CONTRACTOR agrees to cause the foregoing provision to be inserted in all subcontracts for any work covered by this Agreement, so that such provisions will be binding upon each subcontractor provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

D. Noncompliance with the affirmative action program will constitute a breach of the terms of this Agreement.

10. Workman's Compensation.

CONTRACTOR shall furnish evidence of compliance with the insurance provisions of Section 3700 of the labor code of the State of California with respect to Workman's Compensation coverage.

11. Contract Work Hours and Safety Act.

All persons hired by CONTRACTOR to make up a work force for a service contract with CITY shall be compensated at a rate not less than 1-1/2 times the worker's base pay rate for all work in excess of eight (8) hours a day or forty (40) hours a week.

Further, no person will be required to work in surroundings that are unsanitary, hazardous, or dangerous as determined under the standards established by the U.S. Secretary of Labor.

12. Representatives and Notices.

The City Manager, or his designee shall be the representative of CITY for purposes of this Agreement and may issue all consents, approvals, directives, or agreements on behalf of CITY called for by this Agreement except encroachment permits, or as otherwise expressly provided in this Agreement.

John Martin, President, whose offices are in California, shall be the sole representative of CONTRACTOR for purposes of this Agreement, may enter into any subordinate agreements with CITY pursuant to this Agreement on behalf of CONTRACTOR, and may accept service of process.

Notices and written communications sent by one party to the other shall be personally delivered or sent by U.S. mail, postage prepaid, to the following addresses:

If sent by CONTRACTOR to CITY:

City Clerk
City of Torrance
3031 Torrance Boulevard
Torrance, CA 90503

If sent by CITY to CONTRACTOR:

Mr. Gary Duckworth
Vice President/Client Services
Gannett Outdoor
1731 Workman Street
Los Angeles, CA 90031

13. Subcontractors.

None of the service included in this Agreement shall be subcontracted without the prior approval of CITY. CONTRACTOR shall be fully responsible to CITY for the performance of any and all subcontractors.

14. Assignability.

CONTRACTOR shall not assign or transfer any interest in this Agreement, whether by assignment or novation, without the prior written consent of CITY. For purposes of this agreement, corporate reorganization shall not be considered on assignment of interest.

15. Term.

A. The term of this Agreement shall commence at 8:00 a.m. on the day following execution hereof by the Torrance City Council and shall be in effect for a period of ten years.

B. At the end of the ten year period, ownership of all shelters shall revert to CITY unless an extension or renewal of this Agreement shall have been agreed upon by the parties hereto.

C. If CONTRACTOR is in compliance with all terms and conditions of this contract at the end of the initial term, and CITY desires to continue a bus shelter program with advertising, CONTRACTOR and CITY shall enter good faith negotiations to execute an extension, renewal or modification of this contract, granting CONTRACTOR the right to continue to sell the advertising space on the shelters in consideration for maintaining the shelters and/or paying the CITY a fee.

16. Contract Termination

A. If CONTRACTOR is found in default on any conditions of the bus shelter program agreement, and if after a reasonable time cannot rectify the situation and provide for the satisfactory continuance of the Agreement, the CITY may terminate the contract upon giving CONTRACTOR written notice thereof not less than thirty (30) days prior to termination.

B. Upon termination of the contract either by default or by expiration of its term, the CITY shall have the option of either (1) taking ownership of the shelters and operating the program itself or through another CONTRACTOR, or (2) directing CONTRACTOR to remove the transit shelters and restore the respective sidewalks and curbs to their proper and original condition at the CONTRACTOR'S own cost and expense. Should the CITY elect to take ownership, CONTRACTOR shall execute a Bill of Sale for each such shelter specified by CITY within ten (10) days after notice from CITY to CONTRACTOR to do so. If CONTRACTOR fails to do so, the CITY may, at CONTRACTOR'S cost and expense, remove the shelters. If CITY takes ownership and there are undepreciated shelters, CITY will buy such shelters at their depreciated book value. Book value shall mean the lesser of (1) the book value of such shelters carried by CONTRACTOR on its books, or (2) the cost of construction of such shelters defined as follows: The cost of materials, construction and installation, including all applicable sales taxes, the cost of construction bonds, and of direct supervision, but not including the management costs or overhead of CONTRACTOR or of any subsidiary, parent company or affiliate of CONTRACTOR, less depreciation on a straight-line basis using an annual rate of depreciation of 20% subject to audit by the Finance Director, consistent with generally accepted accounting principles which audit shall be final, conclusive and binding upon CONTRACTOR. CONTRACTOR agrees to convey such shelters to CITY in accordance with this Section upon demand at any time following termination of the contract.

17. Validity.

The validity in whole or in part of any provision of this agreement shall not void or affect the validity of the other provisions of this Agreement.

18. Governing Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

19. Entire Agreement.

This Agreement supersedes any and all other agreements either oral or in writing, between the parties hereto with respect to the subject matter hereof and contains all of the covenants and agreements between the parties with respect to said matter, and each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that any other agreement, shall be effective only if executed in writing, and signed by both CITY and CONTRACTOR.

20. Tax Interest.

CONTRACTOR recognizes and understands that this agreement may create a possessory interest in CONTRACTOR subject to property taxation and CONTRACTOR agrees to assume all liability and responsibility for payment of property taxes levied on such interest.

21. Gender and Number.

As used herein, masculine shall include the feminine and neuter, and the singular shall include the plural.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date and year first above written.

CITY OF TORRANCE, a Municipal Corporation of the State of California

By *Fatey Vessier*
MAYOR

ATTEST:

By *[Signature]*
PRESIDENT

John A. Crawford
APPROVED AS TO FORM.
[Signature]
Kenneth L. Nelson

Gannett Transit
Name of Company
1731 Workman Street
Los Angeles, CA 90031
Address
(213) 222-7171
Telephone Number
8/15/90
Date

EXHIBIT A

TRANSIT SHELTER PROGRAM
DESIGN AND CONSTRUCTION SPECIFICATIONS

Bus shelters to be considered for acceptance by City must conform substantially to the following specifications. In the event any design differs materially from these specifications, a full discussion of the relative advantages, must be submitted.

1. SPECIFICATIONS

- A. All work performed on the shelter or the shelter site must conform to the requirements of the Standard Specifications for Public Works Construction and the Uniform Building code, latest edition adopted by the City

2. SHELTER DESIGN DRAWINGS

- A. All designs, plans and Change Orders shall be signed by a California Registered Civil or Structural Engineer before they will be accepted for design or location approval.
- B. Before any shelter can be installed in the City of Torrance, it shall be reviewed for structural design by the City of Torrance Building Department for electrical wiring and appurtenances, structural integrity and soundness of design.

3. LOCATION DESIGN DRAWINGS

- A. The location drawing shall contain a minimum of forty (40) feet to one-inch scale (40 scale) representation of the proposed shelter site covering the area from the property line to the street centerlines at the intersection. Mid-block sites can be shown with broken line ties. The drawing shall tie the shelter location to the closest curb return and give the distance from the existing curb and the property line to the shelter. Also show location of all manholes, catch basins, fire hydrants, poles, trees and other above ground facilities within twenty five (25) feet of the proposed shelter

4. SHELTER DESIGN SPECIFICATIONS

A. Basic Shelter Design

- (1) Shelter shall be enclosed on two sides and covered.
- (2) The roof shall be supported by four curved corner steel columns, aluminum clad steel columns or other similar construction materials. Roof shall be flat.
- (3) A standard roof overhang shall be designed into the shelter to increase protection from the rain and sun.
- (4) The space between all glass, ad panels, and the sidewalk shall be a maximum of six (6) inches to accommodate a blind person's touching cane. This may be accomplished with either a larger glass panel, a deeper bottom glass support or a flange attached to the bottom of the glass support.

B. Advertising Panels

- (1) Only one two-sided back-lit ad panel per shelter will be allowed.
- (2) All ad panels shall be constructed of metal and tempered safety glass.

C. Allowable Size of Shelter

Height: 7'6" to 8'6"
Length: 14' to 17'
Width: 4'6" to 5'6"

However, in the event a shelter is desirable at a location which will not permit construction of the standard shelter meeting these allowable sizes, unique designs will be considered by City, and may be approved.

- D. All ad panels shall be locked or secured in a manner that will eliminate or discourage vandalism.

E. Wheelchair access - all shelters shall be designed to accommodate wheelchairs.

F. Shelter Seating

Minimum bench length - 6'6"

Minimum bench width - 1'5"

Bench shall be located such that a wheelchair can be placed along side the bench within the shelter.

G. Shelter Electrification

(1) Every shelter shall be illuminated by an overhead, energy efficient light fixture concealed in the roof structure. Failure to light the shelters at night shall be grounds for cancellation of the contract.

(a) Minimum size - twenty (20) watts using solar power; eighty (80) watts using conventional power.

(b) Control timers shall be installed.

(2) Every shelter shall have a back lit type ad panel.

(3) All internal electrical components and wiring of each model shelter used shall be approved by the City Department of Building and Safety before installation.

H. Shelter Drainage

(1) All shelters shall contain a roof gutter system to prevent dripping of water over the edges.

(2) Water shall be drained through (a) downspout(s) located in the columns with the water exiting at approximately sidewalk level.

I. Glazing Anchorage

(1) No edge of any glass panel shall be exposed.

(2) All glass panels shall be securely contained and held at both the top and bottom. The securing of all four edges is preferable.

J. All post foundations shall be designed in accordance with

the Uniform Building Code, latest edition adopted by the City.

5. Shelter Signage

- A. The Contractor shall work with the City to insure that bus route information, and City logo, are displayed in or around the shelter.
- B. The name of the nearest cross street shall be placed on roof fascia on both ends of the shelter.
Minimum letter size for this sign shall be three (3) inches high and two and one half (2-1/2) inches wide.
- C. The Contractor shall affix in a conspicuous area of the shelter an owner identification plaque, that includes its business name, address and telephone number.

6. SHELTER CONSTRUCTION SPECIFICATIONS

- A. The shelter shall be prefabricated and assembled at the site.
- B. No welding except for foundation work shall be permitted at the site.
- C. All concrete finishing shall conform to the Standard Specifications for Public Works Construction, Latest Edition.
- D. The vendor must have quality control supervisors working for the vendor and not the sub-contractor at every construction site a minimum of one hour per working day.

EXHIBIT B
PROPOSED SHELTER SITES

1. SB PCH NS Hawthorne
2. SB PCH NS Newton
3. SB PCH NS Ocean Avenue
4. NB Crenshaw FS 190th
5. SB Crenshaw FS 235th Street
6. SB Crenshaw NS Torrance Blvd.
7. NB Crenshaw FS Artesia
8. NB Crenshaw at Wilson Park
9. NB Sepulveda FS Crenshaw
10. NB Sepulveda FS Hawthorne
11. NB Hawthorne NS 244th Street
12. NB Hawthorne FS 238th Street
13. NB Hawthorne FS Center Dr.
14. NB Hawthorne FS 177th Street
15. SB Hawthorne FS Artesia Blvd.
16. SB Hawthorne FS Torrance Blvd.
17. SB Hawthorne FS 238th Street
18. NB Hawthorne NS 182nd Street
19. SB Hawthorne NS 182nd Street
20. WB Carson FS Western

TORRANCE CITY COUNCIL RESOLUTION NO 90-159

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF TORRANCE)

I, John A. Bramhall, City Clerk of the City of Torrance, California, do hereby certify that the foregoing resolution was duly introduced, approved and adopted by the City Council of the City of Torrance at a regular meeting of said Council held on the 21st day of August, 1990,

by the following roll call vote:

AYES: COUNCILMEMBERS: Applegate, Hardison, Mock Walker, Wirth, Geissert

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: Nakano

ABSTAIN: COUNCILMEMBERS: None

/s/ John A. Bramhall
City Clerk of the City of Torrance

August 14, 1990

Council Meeting
August 21, 1990

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

Members of the Council:

Subject: Bus Shelter Program Agreement and Approval of
Additional Shelter Sites

ABSTRACT

The assignment or transfer of interest in an agreement between the City and an outside contractor requires the approval of the City Council. The Department of Transportation (DOT) recommends that your Honorable Body approve the following:

- 1) An attached resolution authorizing Target Media to transfer its interest in two bus shelter agreements to Gannett Transit and the execution of a new ten-year agreement between the City and Gannett Transit when the transfer is completed.
- 2) A list of twenty proposed shelter sites.

BACKGROUND

Target Media has installed and maintained 37 bus shelters with advertising under two ten-year agreements dating from 1983 and 1987 respectively. These agreements permit the contractor to assign or transfer agreement interest upon approval by the City.

Early this calendar year, Target Media requested permission from the City to transfer its interest and sell its shelters in Torrance to Gannett Transit, an advertising arm of Gannett Outdoor Company, of Southern California, a large national firm. As a result of several meetings involving both City Legal and Transportation staffmembers and representatives from Gannett, a new ten-year agreement has been drafted for Council review.

ANALYSIS

Target Media has offered to sell the shelters to the City. However their \$6,000 per shelter asking price is unacceptable to the City staff negotiators, considering that at the termination of the agreement the City could demand the sale of the first 22 shelters for a depreciated value substantially less than \$6,000. Moreover, DOT staff also believes the City is best-served by the continuance

of a program with an outside contractor rather than purchasing the shelters outright. The advantages of the current program are:

- 1) The City still retains the right to take over ownership of the shelters upon termination of the agreement.
- 2) The shelters are maintained and cleaned at no expense to the City.
- 3) New shelters will be installed at no expense to the City.
- 4) The City is paid a monthly share of shelter ad revenues.

DOT staff welcomes the prospect of Gannett Transit taking over the program from Target Media. A national firm with a good reputation in the industry, Gannett maintains an inventory of 1,400 shelters in the cities of Beverly Hills, Burbank, El Segundo, Los Angeles, and West Hollywood.

The proposed ten-year agreement with Gannett would replace the prior agreements, bringing all 37 shelters and an additional 10 new shelters under on contractual umbrella. In preparation for the transfer of interest, Gannett and Target Media have been working together to remedy any shelter deficiencies or problems. The City has received certification that any repairs not performed by Target Media will be performed by Gannett within 90 days of contract execution.

Under the current agreements the City is paid a percentage of collected ad revenues with a minimum dollar guarantee per shelter per month. The proposed agreement would modify the revenue split in the following ways:

Current Agreements	Proposed Agreement
10% \$20 guarantee (22 shelters)	14% \$50 guarantee (37 shelters)
15% \$50 guarantee (15 shelters)	Beginning July 1, 1993* 15% \$85 guarantee

*Revenue due the City is increased at this point as an acknowledgment that the original first shelter agreement would have expired.

Essentially, Gannett has agreed to all the same terms and conditions of the Target Media agreements. The only agreement modification of note is included in Section 15 subsection C, which specifies that at the end of the agreement term, if the Contractor is in compliance with all the terms and conditions of the agreement, the City and Contractor will enter into good faith negotiations to execute an agreement extension.

The proposed agreement also provides for the installation of a minimum of ten new shelters by Gannett. A list of twenty sites (attached to the agreement as Exhibit B) is being submitted for Council approval tonight, from which ten will be chosen by DOT staff to submit for public notification and the review and approval of the City Building and Safety and Engineering Departments or Caltrans.

RECOMMENDATION

The Department of Transportation recommends that you Honorable Body approve the following:

- 1) An attached resolution authorizing Target Media to transfer its interest in two bus shelter agreements to Gannett Transit and the execution of a new ten-year agreement between the City and Gannett Transit when the transfer is completed.
- 2) A list of twenty proposed shelter sites.

Respectfully submitted,

ARTHUR T. HORKAY
DIRECTOR OF TRANSPORTATION

By Ray A. Schmidt
Ray A. Schmidt
Transit Manager

ATH:RDM:lvk

CONCUR


Arthur T. Horkay
Director of Transportation


LeRoy J. Jackson
City Manager

Attachments

- A. Resolution
- B. Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF TORRANCE AUTHORIZING TARGET MEDIA
TO TRANSFER ITS INTEREST IN CERTAIN BUS
SHELTER AGREEMENTS TO GANNETT TRANSIT AND
THE SUBSEQUENT EXECUTION OF A TEN-YEAR
AGREEMENT WITH GANNETT TRANSIT

WHEREAS, Target Media has installed thirty-seven bus shelters in the City of Torrance pursuant to the terms and conditions of the agreements dating from June 23, 1983 and August 3, 1987; and

WHEREAS, these agreements specify that with City of Torrance approval, Target Media may transfer its interest to another firm; and

WHEREAS, Gannett Transit is willing to assume the interest; and

WHEREAS, the City of Torrance desires to see the existing shelters maintained and additional shelters installed without incurring any costs; and

WHEREAS, the City of Torrance has negotiated a new mutually acceptable agreement with Gannett Transit that is proposed for execution when the transfer is completed;

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Torrance that authorization is given for Target Media to transfer its interest in the aforementioned bus shelter agreements with the City of Torrance to Gannett Transit and subsequently for the Mayor of the City of Torrance to execute and the City Clerk to attest to the attached ten-year Agreement with Gannett Transit.

Introduced, approved, and adopted this _____ day of _____, 1990.

Mayor of the City of Torrance

ATTEST:

City Clerk of the City of Torrance

APPROVED AS TO FORM:

Kenneth L. Nelson
City Attorney

By _____

EXHIBIT B
PROPOSED SHELTER SITES

1. NB PCH FS Airport
2. NB PCH NS Madison
3. SB PCH NS Newton
4. SB PCH NS Ocean Avenue
5. SB Crenshaw FS 235th Street
6. NB Sepulveda FS Crenshaw
7. NB Sepulveda FS Hawthorne
8. NB Hawthorne NS Rolling Hills Rd.
9. NB Hawthorne NS 244th Street
10. NB Hawthorne FS 238th Street
11. NB Hawthorne FS Sepulveda
12. NB Hawthorne FS Center Dr.
13. NB Hawthorne FS 177th Street
14. SB Hawthorne FS Artesia Blvd.
15. SB Hawthorne FS Torrance Blvd.
16. SB Hawthorne FS 238th Street
17. NB Hawthorne NS 182nd Street
18. SB Hawthorne NS Rolling Hills Rd.
19. SB Hawthorne NS 182nd Street
20. NB Madrona opp Spencer

