



SAN RAFAEL
THE CITY WITH A MISSION

Agenda Item No: 5.i

Meeting Date: May 2, 2022

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works

**Prepared by: Bill Guerin
Director of Public Works**

City Manager Approval: _____

A handwritten signature in blue ink, appearing to be the initials 'AS', written over a horizontal line.

TOPIC: ADVERTISING TRANSIT SHELTER AGREEMENT

SUBJECT: RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE ADVERTISING TRANSIT SHELTER AGREEMENT WITH OUTFRONT MEDIA LLC EXTENDING THE TERM BY FIVE YEARS

RECOMMENDATION: Adopt the resolution authorizing the City Manager execute an amendment to the advertising transit shelter agreement with Outfront Media LLC extending the term by five years.

BACKGROUND: On September 7, 1993, the City entered into an Advertising Transit Shelter Agreement with Gannett Outdoor Co. for a term of 15 years, commencing on the date the first shelter was put into operation. In the original agreement, in exchange for “the exclusive right to erect and maintain advertising transit shelters on City property” the Contractor agreed to pay a portion of its advertising revenue to the City of San Rafael. This amount was originally specified in 1993 as the greater of \$90 per shelter per month or 18% of advertising revenue.

Since then, Gannett was succeeded by Outdoor Systems then by CBS Outdoor, and now by Outfront Media, LLC, the current contractor. The original 15-year agreement expired in 2008; however, the City and the Contractor continued to operate under the terms of the original 1993 agreement until the agreement was formally amended and approved by City Council on November 21, 2011; raising the payment to the City to \$150 per shelter per month. Six months later, on May 7, 2012, Public Works returned to Council to reduce the payment terms in the 2011 agreement from \$150 to \$126 per shelter (or 25% of gross revenues, whichever was greater), citing the recession and resulting financial hardship impeding the company’s ability to make the higher payments. This amendment to the agreement was set to expire on May 7, 2017. Subsequently, on May 1, 2017, City Council extended the agreement for an additional 5 years, which is set to expire on May 7, 2022.

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

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The 2012 agreement with Outfront Media stated that Outfront Media shall make payments to the City equal to the greater of \$126 per shelter per month (adjusted annually for inflation based on CPI) or 25% of advertising revenue. In a second amendment in 2017, the City agreed to remove the \$126 per shelter per month minimum and allow Outfront Media to pay 25 percent of their monthly revenue as compensation to the City.

It is important to note that in addition to managing advertising services on San Rafael's bus shelters, Outfront Media also incurs the cost of erecting and maintaining the bus shelters. Under the current terms of the agreement, Outfront Media maintains the shelters on a weekly basis, or more often if necessary, to keep shelters and the surrounding area free of litter, graffiti, posters and debris. Shelters are high pressure washed once a month. Importantly, Outfront Media is also responsible for the cost of repair to any damages to the shelters, including responding to any dangerous conditions within 24 hours of notice. There is a telephone contact number posted in all City bus shelters for purposes of notification.

Public Works staff have reported that Outfront Media and its predecessors have consistently maintained bus shelters in a satisfactory manner as described above. The City has received minimal complaints, and Outfront Media has responded to damages and hazards reported in shelters within 24 hours. Bus shelters have been an important and enhanced service the City has been able to provide to transit riders, and one that the City likely would not be able to afford to maintain were it not for the partnership with Outfront Media.

Additionally, under the current agreement, the City is allowed use of unsold bus shelter advertising space, at no charge to the City. The agreement outlines that Outfront Media shall give the City 30 days' notice when unsold space becomes available and will post City messages at no cost. This is an enhanced and free service for the City to utilize in communicating with the public.

ANALYSIS: Due to the upcoming expiration date of the agreement of May 7, 2022, the City Council is being asked to extend the current agreement with Outfront Media for another five-year term.

Under a 25% of revenue payment model, the City anticipates that it will receive payments totaling between \$25,000 and \$35,000 annually.

The maintenance costs for the advertising bus shelters in San Rafael is estimated at \$90,000 per year, and as described above, are fully incurred by Outfront Media under the current agreement. Were it not for the current agreement, the Department of Public Works would have to incur the costs of cleaning and maintaining the existing shelters, including maintaining a 24-hour response to unsafe conditions and graffiti removal. Additionally, since Outfront Media owns the transit shelters for the term of the current agreement; were the City to end the current agreement, San Rafael transit riders may be left without bus shelters if the City cannot afford to take ownership of and maintain the shelters.

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FISCAL IMPACT: The City will receive \$25,000 to \$35,000 annually from Outfront Media and the City will continue to benefit from the erection and maintenance of the bus shelters that are necessary for transit riders which equates to an approximate benefit of \$90,000 annually.

OPTIONS:

1. Approve the resolution authorizing the City Manager to execute an amendment to the Agreement with Outfront Media LLC. to extend the Agreement for another 5-year period.
2. Do not accept the proposal and provide further direction to staff.

ACTION REQUIRED: Adopt the resolution authorizing the City Manager execute an amendment to the advertising transit shelter agreement with Outfront Media LLC extending the term by five years.

ATTACHMENTS:

1. Resolution
2. Agreement Amendment

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE ADVERTISING TRANSIT SHELTER AGREEMENT WITH OUTFRONT MEDIA LLC EXTENDING THE TERM BY FIVE YEARS

WHEREAS, the City of San Rafael and Combined Communications Corp. dba Gannett Outdoor Co. ("Gannett") entered into an Advertising Transit Shelter Agreement, dated September 7, 1993 ("Agreement"), under which Gannett assumed the obligation to install and maintain transit shelters in the City's right-of-way, on which Gannett could place advertising in exchange for compensation paid to the City; and

WHEREAS, after a series of corporate changes, Outfront Media LLC ("Outfront"), is the current successor-in-interest to the rights and obligations of Gannett under the ; and

WHEREAS, on May 7, 2012, the City and Outfront agreed to an Amendment of the Agreement to amend Paragraph II (Duration of the Contract) to provide for an extension of the term of the Agreement for an additional period of 5 years through May 6, 2017, with an option for renewal for another 5 years, under the terms of the original 1993 Agreement, except for a revision to Paragraph V (Payment) to provide for the payment of \$126 per shelter per month (adjusted annually by CPI change) or 25% of gross advertising revenues, whichever was greater; and

WHEREAS, on May 7, 2017, the parties agreed to a Second Amendment of the Agreement to remove the \$126 per shelter per month minimum payment, requiring only that Outfront Media pay the City 25% of gross advertising revenues, and amend Paragraph II (Duration of Contract) to extend the term for an additional period of 5 years, May 7, 2017 through May 6, 2022 and, by written agreement of both parties, for another 5 year period on the same terms; and

WHEREAS, the OUTFRONT has performed regular and satisfactory maintenance and upkeep to transit shelters located within the City Right of Way, providing enhanced service for San Rafael transit riders; and

WHEREAS, the parties wish to amend the Agreement will be extended for a five-year period commencing May 7, 2022 through May 6, 2027 and may be extended for another five-year period on the same terms by the written agreement of the parties, subject to the written approval of the City Manager.

WHEREAS, all other terms and conditions of the Agreement shall remain unchanged and in full force and effect for the term of this Agreement, as amended.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL resolves that it approves and authorizes the City Manager to execute the Amendment to the Advertising Transit Shelter Agreement, subject to approval as to form by the City Attorney.

I, LINDSAY LARA, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of said City held on Monday, the 2nd day of May 2022 by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

**THIRD AMENDMENT TO ADVERTISING TRANSIT SHELTER AGREEMENT
WITH OUTFRONT MEDIA LLC.**

THIS THIRD AMENDMENT to the Advertising Transit Shelter Agreement by and between the **CITY OF SAN RAFAEL** (hereinafter “**CITY**”), and **OUTFRONT MEDIA LLC.** (“**CONTRACTOR**”) is made and entered into as of the _____ day of _____, 202_.

RECITALS

WHEREAS, the **CITY** and Combined Communications Corp. dba Gannett Outdoor Co. of Northern California (“Gannett”), entered into an Advertising Transit Shelter Agreement, dated September 7, 1993 (“Agreement”), under which Gannett assumed the obligation to install and maintain transit shelters in the **CITY**’s right-of-way, on which Gannett could place advertising in exchange for compensation paid to the **CITY**; and

WHEREAS, on May 7, 2012, the **CITY** and CBS Outdoor, Inc., the successor-in-interest to Gannett, agreed to an Amendment of the Agreement to extend the term of the Agreement for an additional period of 5 years through May 7, 2017, with an option for renewal for another 5 years, under the terms of the original 1993 Agreement; and

WHEREAS, **CONTRACTOR** is the successor-in-interest to CBS Outdoor, Inc. and in May 2017 the **CITY** and **CONTRACTOR** entered into a Second Amendment to the Agreement to extend the term of the Agreement for an additional period of 5 years from May 7, 2017 through May 6, 2022; and

WHEREAS, **CITY** and **CONTRACTOR** now wish to further extend the term of the Agreement;

AMENDMENT TO AGREEMENT

NOW, THEREFORE, the parties hereby agree to amend the Agreement as follows:

1. Article II of the Agreement, entitled “DURATION OF THE CONTRACT” is hereby amended to extend the Agreement for a five-year period commencing May 7, 2022 through May 6, 2027, as set forth in

CONTRACTOR's proposal dated April 7, 2022 attached to this Amendment as Exhibit A and incorporated herein by reference.

3. Except as specifically amended herein, all of the other provisions, terms and obligations of the Agreement, as amended by the Second Amendment to the Agreement, shall remain valid and shall be in full force.

IN WITNESS WHEREOF, the parties have executed this Third Amendment on the day, month, and year first above written.

CITY OF SAN RAFAEL

CONTRACTOR

JIM SCHUTZ, City Manager

By: _____

Name: _____

Title: _____

ATTEST:

[If **CONTRACTOR** is a corporation, add signature of second corporate officer]

LINDSAY LARA, City Clerk

By: _____

APPROVED AS TO FORM:

Name: _____

Title: _____

ROBERT F. EPSTEIN, City Attorney



April 07, 2022

Iman K. Kayani
Administrative Analyst
City of San Rafael
Department of public works

Dear Iman

Outfront Media Group LLC. Is prepared to move forward with the 5-year option outlined in the last amendment of our bus shelter advertising agreement which are as follows:

1. Effective Date of May 7, 2022 or as soon as practical after approval by the City of San Rafael.
2. The term would be for 5 years as defined in our amendment.
3. The revenue to the city of San Rafael will be 25% of the collected advertising revenue sold on the San Rafael bus shelters.
4. OUTFRONT Media will continue to maintain the city's bus shelters per the agreement.

All of the other terms and conditions in the original contract remain in effect.

Yours sincerely,

Frank Sandusky
VP Transit Western US
Direct: 657.221.2762 Cell 714.325.5679
2100 W. Oranewood Ave. Suite 160
Orange, CA 92868