



Roll Call Number

21-1428

Agenda Item Number

37

Date September 13, 2021

RESOLUTION APPROVING THE AMENDMENT TO AND EXTENSION OF CONTRACT WITH CREATIVE OUTDOOR ADVERTISING OF AMERICA TO PROVIDE BUS BENCHES ON DES MOINES STREETS SERVED BY PUBLIC TRANSIT

WHEREAS, on March 22, 2010, by Roll Call No. 10-496, the City Council of the City of Des Moines, Iowa, approved a multi-year contract with Creative Outdoor Advertising of America (“Creative Outdoor”) to provide bus benches on Des Moines streets served by public transit (“Contract”), which contract was in response to a Request for Proposals to which Creative Outdoor was the only company to respond; and

WHEREAS, the Contract was set to terminate on March 31, 2020, and additional time is needed for City staff to work with DART through specific details for a cooperative effort between the City and DART regarding said bus benches; and

WHEREAS, the proposed amendment to and extension of the Contract extends the Contract to September 30, 2022, adds terms regarding the removal and transfer of bus benches, and reduces the payments required of Creative Outdoor, all as described in further detail in the Council Communication.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa:

1. That the amendment to and extension of the Contract between the City and Creative Outdoor, a copy of which is on file in the City Clerk’s Office, is hereby approved.
2. That the Mayor is authorized and directed to execute the above-referenced amendment to and extension of the Contract and the City Clerk to attest to his signature.
3. That the City Manager or his designee is authorized and directed to administer the Contract as amended and extended.



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(Council Communication No. 21- 385)

Moved by Boesen to adopt.

APPROVED AS TO FORM:

/s/ Lisa A. Wieland

Lisa A. Wieland, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
VOSS	✓			
WESTERGAARD				✓
TOTAL				
MOTION CARRIED	APPROVED			

P. Kay Cmelik
Mayor

I, P. Kay Cmelik, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

P. Kay Cmelik

City Clerk

AMENDMENT TO AND EXTENSION OF CONTRACT
BY AND BETWEEN
THE CITY OF DES MOINES, IOWA
AND
CREATIVE OUTDOOR ADVERTISING OF AMERICA
FOR
BUS BENCH AND PAD AND RELATED ADVERTISING SERVICES PARTS

THIS AMENDMENT TO AND EXTENSION OF CONTRACT Between the City of Des Moines, Iowa (“CITY”) and Creative Outdoor Advertising (“CONTRACTOR”) to that Contract for Bus Bench and Pad and Related Advertising Services entered into on March 22, 2010 (“the Contract”):

WHEREAS, the Contract terminates on March 31, 2020; and

WHEREAS, the Contract provides that the annual fee to be paid by CONTRACTOR shall be determined by good faith negotiations to determine the feasibility of projected \$40,000 annual payments during years six through ten of the Contract; and

WHEREAS, the parties desire to extend the Contract until September 30, 2022 and to otherwise amend the Contract as described herein.

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. Section 3 shall be amended to extend the term of the Contract to September 30, 2022.
2. Section 4 shall be amended as follows: During the first three years of the Contract (April 1, 2010 through March 31, 2013), the annual payment shall continue to be \$20,000; during the fourth and fifth years of the Contract (April 1, 2013 through March 31, 2015), the annual payment shall be reduced from \$30,000 to \$20,000; and during years six through ten (April 1, 2016 through March 31, 2020), the annual payment shall be \$20,000. Beginning on April 1, 2020 through September 30, 2022, CONTRACTOR shall not be required to make any annual payments.
3. The following shall be added to the Contract:

SECTION 13: REMOVAL AND TRANSFER OF BUS BENCHES AND PADS

- a. Upon written notice from the CITY Manager, or his designee, CONTRACTOR agrees to, within 180 days of the date of such written notice: (i) remove all bus benches identified by the CITY that are not compliant with the American with Disabilities Act and its implementing regulations; and (ii) remove benches and pads that are no longer at bus stop locations.
- b. CONTRACTOR agrees to remove all remaining bus benches within 180 days of the termination date of this Amendment, unless CONTRACTOR has entered into

a new agreement with the CITY or Des Moines Area Transit to provide bus benches beyond the term of this Amendment.

- c. CONTRACTOR agrees to leave all concrete pads in place upon termination of this Amendment and agrees that the CITY shall have ownership of such concrete pads upon the CITY's payment of the amount of \$1.00 per concrete pad to CONTRACTOR.

4. Except as modified above, all other terms of the Contract shall remain in effect.

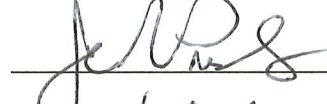
IN WITNESS WHEREOF, we have hereunto set our hands on the day and year first written above.

CITY OF DES MOINES, IOWA



T.M. Franklin Cownie
Mayor

CREATIVE OUTDOOR ADVERTISING
OF AMERICA INC.



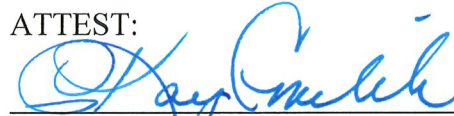
Title: Chief Municipal Contracts Officer

APPROVED AS TO FORM:



Lisa Wieland
Assistant City Attorney

ATTEST:



P. Kay Cmelik
City Clerk

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STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this 13th day of September, 2021, before me, the undersigned, a Notary Public, personally appeared T. M. Franklin Cownie and P. Kay Cmelik, to me personally known, who, being by me duly sworn, did state that they are the Mayor and City Clerk, respectively, of the City of Des Moines, Iowa; that the seal affixed to the foregoing instrument is the seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in the Resolution and Roll Call No. 21 - 1428 adopted by the City Council on the 13th day of September, 2021, and that T. M. Franklin Cownie and P. Kay Cmelik acknowledged the execution of the instrument to be the voluntary act and deed of the municipal corporation, by it voluntarily executed.

Sandi L. Deery
Notary Public in the State of Iowa

STATE OF FLORIDA)
) ss:
COUNTY OF HILLSBOROUGH)



On this 1st day of September, 2021, before me, a notary public, personally appeared Jerry Rome Presley, to me personally known, who being by me duly sworn did say that he/she is the Chief Municipal Contract Off. of CREATIVE OUTDOOR ADVERTISING OF AMERICA, a For Profit corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its board of directors, and he acknowledged the execution of the said instrument to be the voluntary act and deed of said corporation, by it voluntarily executed.

Jaeda Coleman
Notary Public in the State of Florida

State of Florida
County of Hillsborough
The foregoing instrument was acknowledged before me
this 1st day of September 2021
By Jerry Rome Presley
Personally known OR produced identification X
Type of identification produced FL Drivers License

Jaeda Coleman
Notary Public



JAEDA COLEMAN
Commission # GG 362719
Expires September 1, 2023
Bonded Thru Budget Notary Services