



COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

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ALHAMBRA, CALIFORNIA 91803-1331
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DEAN D. EFSTATHIOU, Acting Director

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

August 12, 2008

IN REPLY PLEASE
REFER TO FILE: PD-5

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**BUS STOP SHELTER PROGRAM
LICENSE AGREEMENT NO. 63885-AMENDMENT NO. 5
(ALL SUPERVISORIAL DISTRICTS)
(3 VOTES)**

SUBJECT

Amend Agreement No. 63885 with Clear Channel Outdoor, Inc., for the Los Angeles County Bus Stop Shelter Program to modify the terms and conditions and extend the duration of the Agreement on a month-to-month basis for up to 30 months while a successor licensee is selected and to allow for a transition period.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that this project is categorically exempt from the provisions of the California Environmental Quality Act.
2. Approve the continuation of the bus stop shelter program utilizing Clear Channel Outdoor, Inc., to maintain and remove the advertising bus stop shelters in various locations of unincorporated County of Los Angeles areas during the resolicitation process and transition period to the successor licensee.
3. Approve amending Agreement No. 63885 with Clear Channel Outdoor, Inc., located in Los Angeles, California, for the Los Angeles County Bus Stop Shelter Program to enable this Agreement to continue on a

month-to-month basis for up to 30 months starting September 11, 2008, until all existing advertising bus stop shelters have been removed by Clear Channel Outdoor, Inc.

4. Authorize the Acting Director of Public Works or his designee to execute the amendment; to renew the contract on a month-to-month basis for each month if, in the opinion of the Acting Director of Public Works, the contractor has successfully performed the work during the previous month and the services are still required; to suspend work if, in the opinion of the Acting Director of Public Works, it is in the best interest of the County of Los Angeles to do so; and to approve and execute amendments to incorporate necessary changes within the Agreement.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of the recommended actions is to amend Agreement No. 63885 with Clear Channel Outdoor, Inc., for the Los Angeles County Bus Stop Shelter Program to modify the current terms and conditions and extend the duration of the Agreement on a month-to-month basis for up to 30 months. This amendment will enable Clear Channel Outdoor, Inc., to continue maintaining the existing advertising bus stop shelters while the Department of Public Works (Public Works) resolicits the Advertising Bus Stop Shelter Program and awards a successor licensee to replace up to 325 advertising shelters.

Implementation of Strategic Plan Goals

The Countywide Strategic Plan directs the provision of Service Excellence (Goal 1), Fiscal Responsibility (Goal 4), and improved Community Services (Goal 6). Providing advertising bus stop shelters to protect transit patrons from inclement weather and to provide a comfortable location while they wait for a bus helps to improve the quality of life of our transit patrons at no cost to the County of Los Angeles (County).

FISCAL IMPACT/FINANCING

Clear Channel Outdoor, Inc., performs the maintenance and removal of advertising bus stop shelters at various locations throughout the unincorporated County areas at no cost to the County. During the transition period, the County will receive 15 percent of the gross advertising revenue less agency sales commission, with a guaranteed minimum payment of \$24 per shelter per month until removal. Since the bus stop shelters are located in road right of way, the revenue is deposited in the Road Fund. A portion of the revenue generated from this license Agreement will be used to administer

the program, and any remaining funds will be used to operate and maintain existing road infrastructure.

Additionally, Clear Channel Outdoor, Inc., is required to pay the County a Possessory Interest Tax of 1.1745 percent of the assessed value of the bus stop shelters. Currently, the Possessory Interest Tax is estimated to be \$1,600 per year, and Clear Channel Outdoor, Inc., will be assessed on the same date as other property taxes are billed. They will continue to be assessed for current and future year taxes associated with this amendment. These tax receipts will be deposited in the County General Fund.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The amendment, which is substantially reflected in the attached form, will continue the contract's current terms, specifications, and conditions not altered by this amendment. The Acting Director of Public Works or his designee, in accordance with your Board's authorization and only upon proper execution by the contractor and approval as to form by County Counsel, will execute the amendment.

On March 15, 1983, your Board approved a program to install bus stop shelters at various locations throughout the unincorporated County areas. On June 19, 1990, your Board authorized the Director of Public Works to negotiate and arrange for a License Agreement with Metro Display Advertising, Inc., d.b.a. Bustop Shelters of California, Inc., to install and maintain approximately 280 bus stop shelters in unincorporated County areas. Your Board approved the ten-year Agreement, Agreement No. 63885, on September 10, 1990. On October 19, 1999, your Board approved Amendment No. 1 to this Agreement. Amendment No. 1 authorized the installation of up to an additional 500 shelters, modified the revenue to be paid by Metro Display Advertising, Inc., to be the greater of \$100,000 per year or 15 percent of the gross advertising revenues less agency commission, and authorized the Director of Public Works to implement a five-year extension of the Agreement effective September 11, 2000. On September 6, 2005, August 29, 2006, and August 7, 2007, your Board approved Amendment Nos. 2, 3, and 4 respectively, to this Agreement. Amendment Nos. 2, 3, and 4 each provided for a 12-month continuation of the Agreement on a month-to-month basis while Public Works proceeded with the solicitation process for a replacement agreement to provide for the Advertising Bus Stop Shelter Program.

Metro Display Advertising, Inc., is now doing business as Clear Channel Outdoor, Inc. They currently operate and maintain 325 advertising bus stop shelters in unincorporated areas of the County. Many of these shelters were installed over ten years ago and Public Works would like them modernized.

On May 1, 2008, Public Works solicited the program through competitive bids and received one proposal. The proposal was disqualified due to nonresponsiveness; therefore, Public Works will be resoliciting the program. The 30 months will allow Public Works to resolicit the program, select a successor licensee, and allow for a transition period in which Clear Channel Outdoor, Inc., will remove their advertising bus stop shelters and continue maintaining any existing shelters until all of their shelters are removed and replaced. After the proposals are received and evaluated, Public Works will recommend the award of a contract. The successor licensee will be required to install new advertising shelters to reflect the current needs and expectations of the communities. Clear Channel Outdoor, Inc., will remove their advertising bus stop shelters in accordance with the successor licensee's construction schedule.

ENVIRONMENTAL DOCUMENTATION

This project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15302(b) of the CEQA guidelines and Class 2(a) of the Environmental Reporting Procedures and Guidelines adopted by your Board on November 17, 1987. This exemption provides for the replacement of structures with a new structure of substantially the same size and purpose.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

This amendment to Agreement No. 63885 will enable Clear Channel Outdoor, Inc., to continue maintaining all advertising bus stop shelters installed in accordance with this Agreement.

The Honorable Board of Supervisors
August 12, 2008
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CONCLUSION

Please return two adopted copies of this letter to Public Works, Programs Development Division.

Respectfully submitted,


DEAN D. EFSTATHIOU
Acting Director of Public Works

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Attachment

c: Assessor
Chief Executive Office
County Counsel
Treasurer and Tax Collector

FIFTH AMENDMENT TO LICENSE AGREEMENT NO. 63885

THIS AMENDMENT, made and entered into this ___ day of _____, 2008, by and between the COUNTY OF LOS ANGELES, a subdivision of the State of California, a body corporate and politic (hereinafter referred to as COUNTY), and CLEAR CHANNEL OUTDOOR, INC., a Delaware corporation (hereinafter referred to as LICENSEE).

WITNESSETH

WHEREAS, on September 11, 1990, COUNTY entered into AGREEMENT No. 63885 with Metro Display Advertising, Inc., d.b.a. Bustop Shelters of California, Inc. (hereinafter referred to as AGREEMENT), to provide for the placement and maintenance of transit shelters at selected locations on portions of COUNTY streets and highways; and

WHEREAS, on January 23, 1998, Eller Media, Inc., a subsidiary of Clear Channel Communications, Inc., acquired Metro Display Advertising, Inc.; and

WHEREAS, the First Amendment to this AGREEMENT was approved on October 19, 1999, to modify the revenue portion of the AGREEMENT; and

WHEREAS, in accordance with the AGREEMENT'S Section 2, Duration, it was mutually agreed upon in writing on October 25, 1999, to extend the term of the AGREEMENT for a period of five years, commencing on September 12, 2000 through September 11, 2005; and

WHEREAS, on July 2, 2001, Eller Media, Inc., changed their operating name to Clear Channel Outdoor, Inc.; and

WHEREAS, the Second Amendment to this AGREEMENT was approved on September 6, 2005, to, among other terms and conditions, extend the AGREEMENT on a month-to-month basis, up to 12 months through September 10, 2006; and

WHEREAS, the Third Amendment to this AGREEMENT was approved on August 29, 2006, to extend the AGREEMENT on a month-to-month basis, up to 12 months through September 10, 2007; and

WHEREAS, the Fourth Amendment to this AGREEMENT was approved on August 7, 2007, to extend the AGREEMENT on a month-to-month basis, up to 12 months through September 10, 2008; and

WHEREAS, COUNTY has a need for LICENSEE to continue providing maintenance and repair service for the Advertising Bus Stop Shelter Program (hereinafter referred to as PROGRAM) and to remove all bus stop shelters owned by the LICENSEE starting after September 11, 2008, or as mutually agreed; and

WHEREAS, LICENSEE will continue to compensate COUNTY for rental of advertising space on all advertising bus stop shelters installed under this PROGRAM; and

WHEREAS, the parties desire to extend the service beyond September 10, 2008, for up to an additional 30 months on a month-to-month basis while the COUNTY, through a successor licensee, completes the fabrication, and replacement of advertising bus stop shelters under a new agreement for this service.

NOW, THEREFORE, in consideration of these facts and the mutual benefits to be derived by LICENSEE and COUNTY based on the promises herein contained, COUNTY and LICENSEE agree that AGREEMENT No. 63885 and its amendments shall be amended as follows:

FIRST: That the AGREEMENT term is extended on a month-to-month basis, up to a maximum of thirty (30) months beginning on September 11, 2008. Month-to-month extensions are automatically granted without further action by the COUNTY, unless the COUNTY provides written notice of nonrenewal at least ten days before the last day of any month, in which case this Contract shall expire as of midnight on the last day of the succeeding month.

SECOND: During the period of this extension, LICENSEE shall complete the removal of each advertising bus stop shelter owned by the LICENSEE in accordance with the successor licensee's construction schedule provided by the COUNTY. If LICENSEE is unwilling or unable to complete the removal of each advertising bus stop shelter owned by the LICENSEE in accordance with the successor licensee's construction schedule provided by the COUNTY or as set forth by this Fifth AMENDMENT, at the sole discretion of the COUNTY, the COUNTY may remove the advertising bus stop shelter that was not removed by the LICENSEE, at LICENSEE'S sole expense.

THIRD: The AGREEMENT, First Amendment, Second Amendment, Third Amendment, and Fourth Amendment to the AGREEMENT shall be revised by removing existing Part I, Sections 5e, 9, and 31 and replacing them with the following revised Sections 5e, 9, and 31, and adding Sections 40 and 41.

5. Compensation to COUNTY and Accounting

- e. During the term of this AGREEMENT, or should either COUNTY or LICENSEE terminate this AGREEMENT, LICENSEE shall continue to pay COUNTY fifteen percent (15%) of the gross advertising revenues, after agency sales commission, received for rental of advertising space on all shelters that have not been removed from the public right of way until all shelters are removed. Notwithstanding the above, LICENSEE shall pay COUNTY quarterly a guaranteed minimum of twenty-four and 00/100 Dollars (\$24.00) per shelter per month, for each

of LICENSEE'S bus stop shelters up to and including the month in which each individual shelter is removed. LICENSEE shall make payment to COUNTY within thirty (30) calendar days after the end of each quarter which shall accompany a revenue report and shelter removal schedule. This provision shall survive the termination of this AGREEMENT until the final payment is made to the COUNTY.

9. Performance Bond/Letter of Credit

LICENSEE shall post and maintain an irrevocable letter of credit, or an equivalent security approved by COUNTY, which will insure the benefit of the COUNTY, in the amount of Ninety Thousand and 00/100 Dollars (\$90,000.00). The LICENSEE'S irrevocable letter of credit or other approved equivalent shall remain in effect over the entire duration of the AGREEMENT to ensure the faithful performance of LICENSEE'S covenants for construction, maintenance, repair, replacement and removal of the shelters and benches, timely payment of all revenues to COUNTY (including permit fees, business license, and advertising revenues), and restoration of shelter sites to their condition existing prior to installation of the shelters, whenever a shelter is removed or relocated. LICENSEE expressly authorizes the COUNTY to immediately call upon LICENSEE'S letter of credit, or other approved equivalent, to pay for any advertising bus stop shelter which has not been maintained or timely removed in accordance with this Fifth AMENDMENT to the AGREEMENT. This provision shall survive the termination of this AGREEMENT until the final payment identified in Section 5(e) of this Fifth AMENDMENT to the AGREEMENT is made to the COUNTY and all of LICENSEE'S bus stop shelters have been removed to the satisfaction of the COUNTY.

31. Transition to Successor Licensee

During the term of this Fifth AMENDMENT to the AGREEMENT should the COUNTY terminate or fail to renew the month-to-month extensions in this Fifth AMENDMENT to the AGREEMENT, LICENSEE shall complete the immediate removal of all of LICENSEE'S bus stop shelters no later than 45 days after termination or failure to renew. In the event LICENSEE fails to immediately remove all existing bus stop shelters, the COUNTY may remove the advertising bus stop shelter that was not removed by the LICENSEE at LICENSEE'S sole expense.

If the COUNTY awards a contract for advertising bus stop shelters on the sites currently used by LICENSEE to a successor licensee, LICENSEE shall remove each existing bus stop shelter not more than two (2) weeks, nor less than one (1) day, prior to the installation date of each new bus stop shelter as set forth in the successor licensee's construction schedule provided by the COUNTY in order to minimize the impact to transit patrons, unless otherwise approved in advance by the Director of Public Works.

COUNTY shall notify LICENSEE of the successor licensee's shelter installation schedule at least thirty (30) calendar days in advance of the required removal date of the advertising bus stop shelter. COUNTY will provide LICENSEE a notification of release in writing after LICENSEE removes each shelter and is accepted by COUNTY inspector.

LICENSEE shall maintain the advertising bus stop shelters until they are removed pursuant to provisions herein. LICENSEE shall maintain liability insurance, as required by Section 8 of the AGREEMENT, on each advertising bus stop shelter until it is removed. Further, LICENSEE shall indemnify COUNTY for all damages that arise or are related to the advertising bus stop shelters, their operation, maintenance and removal. LICENSEE shall not leave the site of an advertising bus stop shelter with any safety hazard condition when the advertising bus stop shelter is removed. LICENSEE'S indemnification of COUNTY shall apply to advertising bus stop shelter sites left with any safety hazard condition during and after removal. At the end of the thirty (30) months extension or if LICENSEE neglects or fails to take necessary action during the prescribed period or fails to timely remove the shelters as required, COUNTY reserves the right to immediately remove the shelters at LICENSEE'S expense, or, upon prior written notice to LICENSEE, COUNTY reserves the right to take immediate ownership of the shelters without paying any compensation to LICENSEE.

This provision shall survive the termination of this AGREEMENT until all applicable statutes of limitation run for damages arising from, or related to the LICENSEE'S ownership, operation, and removal of all shelters.

40. Assignment by Licensee

- a. LICENSEE shall not assign its rights or delegate its duties under this AGREEMENT, or whether in whole or in part, without the prior written consent of the COUNTY, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this paragraph, COUNTY consent shall require a written amendment to this AGREEMENT, which is formally approved and executed by LICENSEE and the Board or if delegated by the Board, the Director of Public Works and LICENSEE. Any payments by COUNTY to any approved delegate or assignee on any claim under this AGREEMENT shall be deductible, at COUNTY'S sole discretion, against the claims that the LICENSEE may have against the COUNTY.
- b. Any assumption, assignment, delegation, or takeover of any of the LICENSEE'S duties, responsibilities, obligations, or performance of same by any entity other than the LICENSEE, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever

IN WITNESS WHEREOF, the COUNTY has, by order of the COUNTY OF LOS ANGELES BOARD OF SUPERVISORS, caused these presents to be subscribed by the ACTING DIRECTOR OF PUBLIC WORKS, and the CONTRACTOR has subscribed its name and through its duly authorized officers, as of the day, month, and year first written above.

COUNTY OF LOS ANGELES

By _____
Acting Director of Public Works

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.
County Counsel

By _____
Deputy

CLEAR CHANNEL OUTDOOR, INC.

By _____
Its General Manager

Type or Print Name

By _____
Its Secretary

Type or Print Name