

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date	March 22, 2010
	Agenda Item No. 46 Roll Call No. 10- Communication No. 10-168 Submitted by: Job Brewer, City Engineer and Allen McKinley, Finance Director	

AGENDA HEADING:

Approving a multi-year contract with Creative Outdoor Advertising (COA) to provide bus benches on the streets of Des Moines that are served by public transit.

SYNOPSIS:

Recommend approval of a contract with Creative Outdoor Advertising (Bill Schwartz, Municipal Affairs Manager, 1200 US Hwy. 1, North Palm Beach, FL 33408), to provide bus benches on the streets of Des Moines that are served by public transit. The City Manager’s Office and City Legal have negotiated the agreement to be approved.

FISCAL IMPACT:

Amount: \$20,000 revenue in years 1-3; \$30,000 revenue in years 4-5.

Funding Source: This revenue will be deposited into SP360, ENG100422, FY10 Recommended Operating Budget, page 96.

ADDITIONAL INFORMATION:

Presently, licenses and permits are issued for bus benches for a one year period commencing on April 1st of each year. Permits are renewed to the current licensee if annual fees are paid and the licensee has complied with all terms and conditions. There are 170 bus benches located throughout the City and the City receives \$100 for each permit and \$300 for the annual license (\$17,300). The City does not receive any advertising revenue from the licensee.

At the March 9, 2009 workshop, staff presented recommendations to the City Council regarding the City’s bus benches, including negotiating a contract instead of issuing a yearly license. By negotiating a contract, the City will be able to not only obtain guaranteed revenue, but will also be able to receive a percentage of the advertising sales if they so desire.

In May of 2009, RFPs were sent to four companies requesting proposals to provide a bus bench/street side amenities program on the streets of Des Moines that are served by public transit. Those companies included:

- EMC Outdoor, 5074 W. Chester Pike, Newton Square, PA
- U.S. Bench Corp., 3300 Snelling Ave., S. Minneapolis, MN
- Creative Outdoor Advertising, 1200 US Hwy. 1, North Palm Beach, FL
- Transit Bench Co., 8459 Rosewood Dr., Chanhassen, MN

Transit Bench Co. has been the City's licensee for bus benches for the past 25 plus years. Transit Bench Co. was purchased by COA in the summer of 2009 and they have taken ownership of the existing permits, benches and the concrete pads.

COA was the only company that responded to the RFP and they have proposed the following:

- Replace existing benches with new aesthetically pleasing benches at approved sites.
- Maintain each bus bench site on a weekly basis, including cleaning of the bench surface; removing garbage; clearing of snow, overgrown grass or weeds from around the bench; repair any structural damage; and removal of graffiti.
- Guaranteed return of \$20,000, plus 2% of net revenue.

On October 20, 2009 staff presented the follow up review of the proposed DART bus bench design to the Urban Design Review Board. This item was presented for comments at the request of the City Manager. Gary Fox, City Traffic Engineer, and George Appleby, representing Creative Outdoor Advertising, provided history on the project and responded to questions. This item was previously reviewed by the Board in March 2009. Questions at that time included:

- How would proposed trash and recycling components of the benches be maintained? Concerns about proximity to patrons.
- Considerable investment has been made in streetscape projects in certain areas; the proposed design is incompatible.
- Other companies that may have proposed alternative designs?
- General questions on maintenance of the benches.

Staff and consultants clarified the history of the RFP process for the bus benches, identifying COA as the sole respondent. The trash and recycling components are not planned to be included. Installation of the new bench design is not proposed in areas where streetscapes have been implemented.

The Board concluded that the Boulevard design was preferred over the Concourse and Plaza models, and reinforced the intent that streetscape areas not be included in the planned bus bench replacements. Ingersoll, Beavertdale and the Drake area were specifically referenced in this recommendation. The ongoing maintenance and costs of the trash and recycling receptacles were cited as negatives, and it was recommended that these components not be included.

Maintenance of the benches, including snow and ice removal, will be the responsibility of COA and according to the contract, they shall maintain all benches in good repair. COA will be solely responsible for ensuring the provision of normal maintenance, snow removal and treatment of ice within a 3 foot radius, as follows:

- To keep the area free of debris;
- To keep the benches clean and free of graffiti; and
- To inspect benches for damage during regular maintenance and make arrangements for timely repair.

COA's failure to remove snow and treat ice, as specified in the contract, within 48 hours of posting on the City of Des Moines website that the snow ordinance is no longer in effect shall be subject to an administrative penalty of \$50 per bench, as provided in the scheduled administrative penalties adopted by the City Council and provided to COA.

The contract further states that if COA does not fulfill its obligation, as dictated by the contract, that the City may terminate the contract by giving 90 days written notification to COA.

Because of the unknown revenue for advertising sales in the Des Moines market at this time, staff felt it would be more beneficial to request a guaranteed \$20,000 in years 1-3 and \$30,000 in years 4-5. After year 5, staff and COA will review the circumstances and engage in good faith negotiations to determine the feasibility of the projected per annum payments for years 6 through 10.

PREVIOUS COUNCIL ACTION(S):

Date: October 26, 2009

Roll Call No.: 09-1970

Action: Proposal from Creative Outdoor Advertising (COA) to provide a bus bench/street side amenities program on the streets of Des Moines that are served by public transit. (Council Communication No. 09-755) Moved by Vlassis to adopt; refer to City Manager to bring back a contract for Council approval. Motion Carried 7-0.

Date: June 3, 2002

Roll Call No.: 02-1418

Action: Amending Chapter 102 of the Municipal Code relating to the fees and allowed location and design for bus benches. Moved by Hensley that this ordinance do now pass, #14,095. Motion Carried 7-0.

Date: May 6, 2002

Roll Call No.: 02-1159

Action: Amending Chapter 102 of the Municipal Code relating to the fees and allowed location and design for bus benches. (Council Communication No. 02-242). Moved by Coleman that this ordinance be considered and given first vote for passage, as amended to shorten the time period for compliance of existing benches to December 31, 2003. Motion Carried 5-2. Nays: Cownie and Vlassis.

Date: February 18, 2002

Roll Call No.: 02-509

Action: Approving City Manager's recommendation to defer consideration of proposed changes to the ordinance regarding licensing and placement of bus benches and other encroachments on City property, until the March 18, 2002 Council meeting, and placing a moratorium on new license issue until that time. SPONSOR: Hensley. Moved by Vlassis to receive and file, to direct the Legal Department to prepare the necessary legislation to implement the City Manager's recommendation; and to direct that no new licenses for bus benches be granted until after March 18, 2002, to permit the City Council an opportunity to consider adopting an ordinance implementing the City Manager's recommendations prior to the issuance of further bus bench permits. Questions regarding type of advertising allowed and portion of

fees to neighborhoods for beautification referred to City Manager for review and recommendation.
Motion Carried 7-0.

Date: January 28, 2002

Roll Call No.: 02-263

Action: Amending Chapter 102 of the Municipal Code regarding increased fees for bus benches and other areaway permits. (Council Communication No. 02-036). Moved by Hensley to refer back to staff for further revisions, incorporating the Council's suggestions. Motion Carried 6-1.

BOARD/COMMISSION ACTION(S):

Date: March 3, 2009

Roll Call No.: N/A

Action: Urban Design Review Board requested that Creative Outdoor Advertising provide a more definitive plan, including potential locations for the proposed benches, and comparisons to other vendors providing these products and services. Motion seconded, with a friendly amendment as follows: Provide additional information regarding maintenance, financial impact and use in neighborhoods with streetscapes/street furniture.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Amendments to the bus bench ordinance.

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