



CITY COUNCIL AGENDA REPORT

MEETING DATE: OCTOBER 21, 2008

ITEM NUMBER: ____

SUBJECT: RENEWAL OF BUS SHELTER ADVERTISING FRANCHISE AGREEMENT

DATE: OCTOBER 9, 2008

FROM: PUBLIC SERVICES DEPARTMENT – TRANSPORTATION SERVICES DIVISION

PRESENTATION BY: PETER NAGHAVI, DIRECTOR, DEPARTMENT OF PUBLIC SERVICES

**FOR FURTHER INFORMATION CONTACT: RAJA SETHURAMAN, MANAGER,
TRANSPORTATION SERVICES DIVISION**

RECOMMENDATION:

1. Adopt the Resolution (Attachment 1) and approve the First Amended Franchise Agreement (Attachment 2) for the renewal of the bus shelter advertising franchise with Clear Channel Outdoor, Inc., for a five-year period beginning November 1, 2008.
2. Approve an adjustment in the minimum guaranteed compensation from \$94 to \$99 per month, per shelter, in accordance with comparable increases in the published Consumer Price Index (CPI) for all urban consumers for the Los Angeles-Anaheim-Riverside region for the year ending in August 2008. Authorize the Director of Public Services to make subsequent adjustments annually in accordance with increases in the CPI.

BACKGROUND:

On May 4, 1992, the City Council adopted an ordinance allowing the placement of bus shelters with advertising displays within the public right-of-way, serving the public transit system. The ordinance included provisions to conform to general requirements regarding visibility for traffic safety, pedestrian accessibility, compatibility with adjacent land uses, and assessment of a fee for each shelter incorporating advertising displays. Accordingly, the City has contracted out this service for the past 15 years.

On June 9, 2003, a Request For Proposals (RFP) was issued to twelve prospective companies that had previously indicated an interest in the City's bus shelter advertising program. The RFP described the current bus shelter franchise program, services to be provided, and stipulated minimum service and compensation levels for bids to be considered. On the RFP closing date of July 7, 2003, qualified proposals were received from only two companies; Clear Channel Outdoor, the current franchisee, and Culver Amherst of New York.

As a result of thorough analysis of the two proposals, the City Council, on October 6, 2003, awarded the new bus shelter franchise to Clear Channel Outdoor, Inc., for a five-year term

expiring on October 31, 2008. The franchise agreement allows for a renewal for a subsequent five-year term with City Council approval. A copy of the current franchise agreement is provided as Attachment 3.

Initial approval of the bus shelter advertising program in 1992 included installation of a minimum of 50 bus shelters. In subsequent years, Clear Channel Outdoor has requested, and the City Council has approved, the installation of an additional 23 bus shelters with advertising displays at locations that would be appropriate and beneficial to bus patrons, providing the City with a current total of 73 advertising bus shelters. A complete list of all bus shelter locations is shown on Attachment 4.

On July 2, 2008, In accordance with terms of the franchise agreement, Clear Channel Outdoor submitted a letter (Attachment 5) seeking to extend the term of the agreement for an additional five years.

ANALYSIS:

Clear Channel Outdoor's routine service includes emptying the trash receptacles and cleaning around the shelters twice a week. Additionally, the shelters and sidewalk areas immediately around the shelters are power washed on a regular basis. This service also includes the 20 City owned non-advertising shelters.

City staff monitors bus shelter conditions on a frequent basis. Staff also performs night rides regularly throughout the year to monitor and note any lighting deficiencies. When staff has noted the need for additional attention with regards to the condition of a shelter, Clear Channel Outdoor has always been prompt to respond and has taken appropriate action.

Over the years, Clear Channel Outdoor has expanded their service to most of Orange County. They currently have bus shelter franchise agreements in place with 21 of 34 Orange County cities, the County of Orange, and two local colleges. Staff has contacted other Orange County cities and is not aware of another local company currently providing this service in Orange County.

An audit of records of Clear Channel Outdoor for the period of November 1, 2003, to date has been completed by the Finance Department pursuant to provisions of the franchise agreement. The audit found that a change in accounting procedures resulted in a minor reporting discrepancy over the past three years. Clear Channel has accepted the audit findings and adjusted their accounting procedures to the City's satisfaction, and is current in payment of required compensation. Based on staff's review, Clear Channel Outdoor has complied with all requirements of the franchise agreement. As a result of the audit and examination of revenue received since inception of the current franchise, revenue for the current five-year franchise is anticipated to be approximately \$547,000.

The current franchise agreement with Clear Channel Outdoor allows for an increase in the minimum guaranteed compensation for each extension year of the renewal period based upon the published Consumer Price Index (CPI) for all urban consumers for the Los Angeles-Anaheim-Riverside region for the year ending in August. Current minimum guaranteed compensation is \$94 per month or 25 percent of gross advertising revenue less agency commission, whichever is greater, for each transit shelter containing advertising panels. Based upon the most recent CPI for the year ending in August

2008, the minimum guaranteed compensation may be increased by 5.1 percent or to \$99 per month per shelter. Approval of the recommended action will allow the Director of Public Services to make subsequent increases in the minimum guaranteed compensation annually in accordance with increases in the CPI.

In addition to this monetary revenue generated by bus shelter advertising, the City also realizes savings by having Clear Channel Outdoor perform maintenance and cleaning of the 20 City owned non-advertising bus shelters and trash collection at all other bus stops throughout the City. The cost savings to the City to have this additional service performed as part of the franchise agreement is estimated at \$2,160 per month, or \$25,920 per year.

The current franchise agreement allows for one five-year extension of the franchise agreement without a bidding process and provides the City with the opportunity to adjust the minimum guaranteed compensation in accordance with the CPI each year. Per the terms of the franchise agreement, Clear Channel Outdoor, in a letter dated June 30, 2008 (Attachment 5), has requested an extension of the franchise for an additional five years.

Staff has evaluated the service performed by Clear Channel Outdoor with regard to the quality of work performed, attention to detail, and their ability to comply with City requirements, as well as timeliness in responding to City notification of cleaning or repair work. Continually, over the past years and throughout the previous franchise term, Clear Channel Outdoor has responded to each and every situation as needed. Staff, therefore, concurs with Clear Channel Outdoor's request and recommends that the City Council extend the franchise agreement for an additional five-year term.

Based upon the staff recommendation, the City Attorney has prepared the necessary Resolution (Attachment 1) and the First Amended Franchise Agreement (Attachment 2) for renewal of the bus shelter franchise with Clear Channel Outdoor for an additional five-year period.

ALTERNATIVES CONSIDERED:

One alternative is to not extend the franchise agreement and issue a Request For Proposals to receive new bids on the bus shelter franchise. Staff does not recommend this alternative at this time based upon the performance of Clear Channel Outdoor and considering the limited response from other companies to the past RFP. The City does not expect to gain any additional choices for service or increased revenue at this time.

Another alternative is to not extend the current franchise agreement, and to completely stop this kind of service. Staff does not recommend this alternative as it would result in removal of all advertising bus shelters and discontinuance of maintenance of all City owned non-advertising bus shelters. All revenue received through the franchise agreement would cease and the cost of maintenance of 20 City owned bus shelters would become the direct responsibility of the City.

FISCAL REVIEW:

An audit of the records of Clear Channel Outdoor has been performed by the Finance Department pursuant to provisions of the franchise agreement. Clear Channel Outdoor has been found to be in compliance with all requirements of the franchise agreement.

Based upon the Minimum Guaranteed Compensation of \$94 per month, per shelter, minimum revenue to the City for the current five-year term is projected to be \$411,720. The additional revenue provided by the provision of 25% of advertising revenue has added \$126,630 to date of the five-year term of the franchise resulting in anticipated total revenue of approximately \$547,000. In addition, cost savings to the City for cleaning benches and emptying trash containers at bus stops where no shelters exist is estimated as \$25,920 per year, or \$129,600 in savings over five years.

LEGAL REVIEW:

The City Attorney has prepared and approved as to form the Resolution and the First Amended Franchise Agreement.

CONCLUSION:

The franchise agreement with Clear Channel Outdoor, authorizing the placement of bus shelters with advertising displays, maintenance of all bus shelters within the public right-of-way, and trash collection services, expires on October 31, 2008. Clear Channel Outdoor has demonstrated efforts to maintain bus shelters to a high standard. The installation of bus shelters has proven to be beneficial by providing improved accommodations to bus patrons, eliminating the cost of maintenance of existing City owned non-advertising bus shelters, providing trash collection services, and supplying the City with a consistent revenue stream.

Based on the level of service Clear Channel Outdoor has provided to the City over the five-year term of the franchise, and in conjunction with the increased revenue and reduced cost to the City for maintenance of bus stop facilities, staff recommends adoption of the Resolution and approval of the First Amended Franchise Agreement renewing the bus shelter franchise with Clear Channel Outdoor for an additional five-year period to expire on October 31, 2013.

In order to maintain a revenue stream consistent with local economic indicators, staff also recommends the City Council increase the minimum compensation from \$94 to \$99 per shelter, per month, and authorize the Director of Public Services to make subsequent increases annually in accordance with increases in the CPI.

RAJA SETHURAMAN, MANAGER
Transportation Services

PETER NAGHAVI, DIRECTOR
Department of Public Services

MARC R. PUCKETT, DIRECTOR
Finance Department

DISTRIBUTION: City Manager
City Attorney
City Clerk
Finance Director
Director of Public Services
Staff
File

ATTACHMENTS: 1 [Resolution](#)
2 [First Amended Franchise Agreement](#)
3 [Franchise Agreement](#)
4 [Bus Shelter Locations](#)
5 [Clear Channel letter dated June 30, 2008](#)

RenewalofBusShelterAdvertisingFranchise

10/7/08

8:30 a.m.